



EXPLANATORY NOTES

Offensive Weapons Act 2019

Chapter 17

£11.50

OFFENSIVE WEAPONS ACT 2019

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Offensive Weapons Act 2019 which received Royal Assent on 16 May 2019 (c. 17).

- These Explanatory Notes have been prepared by the Home Office in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

- 1 The purpose of this Act is to help reduce violent crime. Specifically, the Act will
 - Prohibit the possession of corrosive substances in a public place and the sale of corrosive products to those aged under 18;
 - Strengthen the arrangements for the online sale of bladed articles, bladed products and corrosive products;
 - Prohibit the possession of certain offensive weapons;
 - Prohibit the possession of certain firearms;
 - Introduce Knife Crime Prevention Orders

Policy background

- 2 Serious violence consists of knife crime, gun crime, homicide and robbery, in addition to other offences such as acid attacks and county lines drug dealing. After falling for a decade, homicide, knife crime and gun crime rose from year ending March 2014 to year ending March 2019, homicide by 27%, knife crime by 85%, and gun crime by 42% (note that part of the knife crime and gun crime increase was due to recording improvements). Robbery has risen by 80% from year ending March 2015 to year ending March 2019. These trends have stabilized from 2018/19, with the exception of knife crime which continued to rise prior to the pandemic. This is likely to be related to the continuing improvements in recording of knife crime, with NHS hospital admissions for assault with a sharp object having stabilized and started declining prior to the pandemic.
- 3 The pandemic has placed further downward pressure on serious violence, in particular knife crime. The latest police recorded crime figures, published by ONS¹ in May 2021 for the year ending December 2020, show that there was a 9% decrease in offences involving knives or sharp instruments recorded by the police in the year ending December 2020 (to 46,015 offences) compared with the previous year. The last annual decrease seen in offences involving knives or sharp instruments recorded by the police was in the year ending March 2014.
- 4 As part of the development of this Act, the Government publicly consulted on a number of legislative proposals which now form a large part of the Act. The consultation, which closed on 9 December 2017, received over 10,500 responses and a summary of the responses received has been published at <https://www.gov.uk/government/consultations/offensive-and-dangerous-weapons-new-legislation>.

¹ Crime in England and Wales: year ending December 2020, ONS
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdecember2020>

- 5 The Act forms one of the commitments within the Government's Serious Violence Strategy², published on 9 April 2018. The Strategy is taking action to address serious violence and in particular the increases in knife crime, gun crime and homicide.
- 6 The use of acid and other corrosives as a weapon is of significant concern given the life changing injuries that these substances can cause. The latest police recorded crime figures, published by ONS³ on 17 July 2020, for the year ending March 2020, shows that there were 619 violence against the person and robbery offences involving corrosive substances (excluding Greater Manchester Police). It had been previously estimated from a National Police Chiefs Council voluntary data collection covering the period October to December 2017, that there were around 800 corrosive attacks per annum in England and Wales. All 43 police forces in England and Wales and British Transport Police provided returns for the voluntary collection.
- 7 There is already in place a set of voluntary commitments⁴ amongst retailers on the sale of corrosive products under which retailers agree not to sell products to those under 18 that contain potentially harmful levels of acid or corrosive substances - including applying Challenge 21/25 policies when asking for age identification, staff supported by till alerts, supervision and inclusion of these products in age restricted sales training. Under the voluntary commitments, retailers also agree that equivalent age restriction measures are applied to products sold online. In the case of certain corrosive substances retailers are required to comply with the Poisons Act 1972 and promote awareness to staff and what this means for the sale of products which contain levels of acid and other corrosive substances which are either regulated or reportable under the 1972 Act.
- 8 The police have asked for a new court order which will help them to manage those at risk of knife crime in their communities. This Act introduces Knife Crime Prevention Orders (KCPOs) for that purpose. It will be possible for the courts to issue a KCPO to any person from age 12 upwards. The intention is that these new orders will be preventative in focus, rather than punitive, targeted at those who are identified as being at high risk of being drawn in to knife crime, to provide them with the help and support they need to turn away from serious violence and knives. KCPOs will allow the courts to place restrictions on individuals, such as curfews or geographical restrictions, as well as positive intervention requirements to help the individual to avoid serious violence. The orders are civil and being subject to a KCPO will not give the individual a criminal record. Breach of the KCPO will, however, be a criminal offence, reflecting the serious nature of knife crime. The maximum sentence will be 2 years in prison, although it will be open to the court to issue a lesser sentence, including a community sentence, depending on the seriousness of the breach and the circumstances of the case. KCPOs will be for a maximum duration of 2 years and must be reviewed by the courts after 12 months although should be reviewed more regularly for younger subjects.

² Serious Violence Strategy for England and Wales - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698009/serious-violence-strategy.pdf

³ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesotherrelatedtables>

⁴ <https://www.gov.uk/government/news/retailers-and-academics-join-government-effort-to-tackle-acid-attacks>

Legal background

Corrosive products and corrosive substances

- 9 Section 29 of the Offences against the Person Act 1861 prohibits the throwing or applying to any person, any corrosive fluid with the intent to burn, maim, disfigure, or disable any person or to do some grievous bodily harm to any person. Section 18 of the Offences against the Person Act 1861 concerns the causing of grievous bodily harm with intent. Section 1 of the Prevention of Crime Act 1953 prohibits the possession in any public place of an offensive weapon without lawful authority or reasonable excuse. The term “offensive weapon” is defined as “any article made or adapted for use to cause injury to the person, or intended by the person having it with them for such use”.
- 10 The sale of certain types of acids, and other dangerous corrosive chemicals, is controlled by the Poisons Act 1972 (the “1972 Act”), as amended by the Deregulation Act 2015. The 1972 Act draws a distinction between “regulated” substances and “reportable substances”. Regulated substances – which contain high concentrations of certain chemicals – are now restricted from sale to the general public. If a member of the general public wants to buy any of the regulated substances, they need to apply to the Home Office for a licence to import, acquire and to possess and use. Reportable substances can be bought without a licence, but retailers are required to report suspicious transactions and significant losses and thefts.

Offensive weapons and bladed articles

- 11 The following legislation regulates the control of offensive weapons, dangerous weapons and bladed articles in England and Wales, Scotland and Northern Ireland:
 - The Prevention of Crime Act 1953;
 - The Restriction of Offensive Weapons Act 1959;
 - The Criminal Justice Act 1988;
 - The Criminal Justice Act 1988 (Offensive Weapons) Order 1988 (SI 1988/2019);
 - Articles 53 and 54 of the Criminal Justice (Northern Ireland) Order 1996 (SI 1996/3160 (NI24));
 - The Criminal Justice Act 1998 (Offensive Weapons) (Scotland) Order 2005 (SSI 2005/483);
 - The Violent Crime Reduction Act 2006;
 - The Custodial Sentences and Weapons (Scotland) Act 2007

Firearms

- 12 The Firearms Act 1968 (“the 1968 Act”) is the principal statute regulating the control of firearms in England and Wales, and Scotland. Section 5 of the Act prohibits the possession of specific types of weapons, their component parts and ammunition without the authority of the Secretary of State. These include handguns, automatic weapons and weapons which discharge any noxious liquid or gas, amongst others.

- 13 The Firearms (Northern Ireland) Order 2004 (SI 2004/702 (NI 3)) regulates the control of firearms in Northern Ireland. Article 45 of the Order makes similar provision to section 5 of the 1968 Act by prohibiting the possession of specific types of weapons, their component parts and ammunition without the authority of the Secretary of State.

Territorial extent and application

- 14 Section 69 sets out the territorial extent of the Act, that is the jurisdictions of which the Act forms part of the law. The extent of an Act can be different from its application. Application is about where an Act produces a practical effect.
- 15 The Offensive Weapons Act makes provision in respect of matters in relation to Scotland and Northern Ireland that are within the devolved legislative competence of the Scottish Parliament and the Northern Ireland Assembly. Where there are provisions relating to matters within the legislative competence of the Scottish Parliament, the Welsh Parliament (or Senedd) or the Northern Ireland Assembly, the consent of the relevant devolved legislature(s) has been sought for the provisions.
- 16 Sections 1 to 4, which make provision in respect of the reserved matter (in relation to Scotland) of corrosive products, extend to the United Kingdom.
- 17 Sections 54 to 63 collectively cover the United Kingdom.
- 18 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Act

Part 1: Corrosive products and substances

Sale and delivery of corrosive products

Section 1: Sale of corrosive products to persons under 18 and Schedule 1

- 19 The sale of certain types of acids, and other chemicals, is controlled by the Poisons Act 1972, as amended by the Deregulation Act 2015. The 1972 Act draws a distinction between "regulated substances" and "reportable substances". Regulated substances – which contain high concentrations of certain chemicals – are now restricted from sale to the general public. If a member of the general public wants to buy any of the regulated substances, they need to apply to the Home Office for a licence to import, acquire and to possess and use. Reportable substances can be bought without a licence, but retailers are required to report suspicious transactions and significant losses and thefts.
- 20 Under subsection (1) of this section an individual commits an offence if they sell a corrosive product, as defined in Schedule 1 of the Act, to a person who is under the age of 18.
- 21 Subsection (2) sets out a defence to this offence, in England and Wales or Northern Ireland, of having taken all reasonable precautions and exercised all due diligence to avoid committing the offence. This defence is similar to the one available in relation to the sale of knives and certain articles with a blade or a point under section 141A of the Criminal Justice Act 1988. Taking reasonable precautions and exercising due diligence would entail verifying the age of a purchaser through, for example, requiring them to produce recognised documents such as a passport or driving licence.
- 22 Subsection (3) sets out a defence in Scotland where the accused is able to show that they believed the person to whom the product was sold was aged 18 or over and either the accused had taken reasonable steps to establish the purchaser's age or no reasonable person, based on the purchaser's appearance, could have suspected they were under 18. Reasonable steps must include that the accused was shown any of the documents listed in subsection (5) and that the document would have convinced a reasonable person. Under subsection (6), the accused will be considered to have shown they have taken all reasonable precautions and exercised all due diligence where they have produced sufficient evidence to raise an issue in relation to the defence and the contrary has not been proved beyond reasonable doubt.
- 23 This offence is a summary only offence and subsection (7)(a) makes provision for a maximum penalty in England and Wales of imprisonment of 51 weeks, a fine, or both. The 51 weeks maximum sentence is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months.
- 24 Subsection (7)(b) makes provision for the maximum penalty that will apply to offences committed in Northern Ireland or Scotland, which is a term of imprisonment not exceeding 6 months, a fine not exceeding level 5 on the standard scale or both.
- 25 Subsection (9) provides that proceedings in Scotland for an offence under subsection (1) must be commenced no later than 12 months following the commission of the offence.
- 26 Subsection (11) makes it clear that, for the purposes of sections 2 to 4 of the Act, a corrosive product is a substance listed in the first column of Schedule 1 of this Act or a product that contains a substance listed in the first column of Schedule 1 in a concentration higher than that set out in the second column of Schedule 1.

- 27 Subsection (12) provides that the appropriate national authority may amend Schedule 1 through regulations by adding, modifying or removing a substance or concentration limit.
- 28 Subsection (13) places a requirement on the appropriate national authority to consult as appropriate such persons likely to be affected by the regulations before making them.
- 29 Subsection (14) provides that the relevant national authority for the purposes of amending Schedule 1 by secondary legislation is the Secretary of State in relation to England, Wales and Scotland; and the Department of Justice in Northern Ireland in relation to Northern Ireland.
- 30 Subsection (15) provides that references to a “corrosive product” in sections 1-4 do not include a substance or product which is contained in a battery.
- 31 This section forms part of the law of the United Kingdom.

Section 2: Defence to remote sale of corrosive products to persons under 18

- 32 Section 2 sets out how the defence to the offence of selling a corrosive product to persons under 18 applies in relation to remote sales. A remote sale is any sale where the seller or a person acting on the seller’s behalf was not in the presence of the buyer at the time of the sale. This includes, for example, when the sale was made online, by mail order or over the telephone. Subsection (2) ensures that the offence applies to both individuals and companies.
- 33 Where the seller is charged with an offence under section 1 in England and Wales or Northern Ireland, the seller will not be regarded as having taken all reasonable precautions and exercised all due diligence to avoid the commission of the offence unless, as a minimum, they prove they have met the following conditions:
 - Condition A – that, at the time of any alleged offence being committed, a seller had a system in place for checking the age of anyone purchasing corrosive products that was likely to prevent anyone under the age of 18 from purchasing that product;
 - Condition B – that any package containing a corrosive product that is dispatched from the seller is clearly marked in a way that indicates that the package both contains a corrosive product and that, on final delivery, it should only be delivered into the hands of a person aged 18 or over (whether the buyer or their representative);
 - Condition C – is that the seller must prove they took all reasonable precautions and exercised all due diligence to ensure that the package would be handed over to a person aged 18 or over. This applies whether the retailer delivers the package themselves or through a third party; and
 - Condition D – that the seller did not deliver the package, or arrange for it to be delivered, to a locker as defined in subsection (11) of section 2.
- 34 In Scotland, under subsection (4), it is a defence to the offence for the seller to show those same conditions are met. Under subsection (5), the seller will be considered to have shown a condition where they have produced sufficient evidence to raise an issue in relation to the defence and the contrary has not been proved beyond reasonable doubt.
- 35 This section forms part of the law of the United Kingdom.

Section 3: Delivery of corrosive products to residential premises etc.

- 36 Section 3 provides that it is an offence for a seller to deliver, or to arrange for the delivery of, a corrosive product to a residential premise or to a locker, where the sale is made remotely. A locker is defined in subsection (7).
- 37 Subsection (5) provides that a residential premise is one used solely for residential purposes.
- 38 Subsection (6) clarifies that a premise from which a business is run, for example a plumber who operates a business from his or her home, would not meet the definition of residential premises.
- 39 Subsection (8) provides for a defence to the offence in England and Wales and Northern Ireland, where the person charged can prove that they took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- 40 Subsection (9) provides for a defence to the offence in Scotland, where the accused can show they took all reasonable precautions and exercised all due diligence to avoid committing the offence. Under subsection (10), the accused will be considered to have shown they have taken all reasonable precautions and exercised all due diligence where they have raised sufficient evidence in relation to the defence and the contrary has not been proved beyond reasonable doubt.
- 41 This offence is a summary only offence and subsection (11)(a) makes provision for a maximum penalty in England and Wales of imprisonment of 51 weeks, a fine, or both. The 51 weeks maximum sentence is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months. In Scotland and Northern Ireland, the maximum sentence will be six months imprisonment, a fine not exceeding level 5 on the standard scale or both, per subsection (11)(b).
- 42 Subsection (13) provides that proceedings in Scotland for an offence under section 3(2) must be commenced no later than 12 months following the commission of the offence.
- 43 This section forms part of the law of the United Kingdom.

Section 4: Delivery of corrosive products to persons under 18

- 44 This section applies to delivery companies that have entered into an arrangement with a seller of corrosive products, who is outside of the United Kingdom, to deliver the products to buyers in the United Kingdom. This only applies to corrosive products that have been sold when the seller and the buyer have not been in each other's presence at the time of the sale (i.e. the sale was made remotely, whether by telephone, online or by post).
- 45 Subsection (1)(d) makes it clear that the section will only apply if the delivery company is aware that they may be delivering corrosive products on behalf of the seller.
- 46 Subsection (2) makes provision to ensure that the offence in subsection (4) applies to both individuals and companies.
- 47 Subsection (3) sets out that a person other than an individual is "outside the UK at any time" if the person does not carry on a business of selling articles of any kind from premises in any part of the United Kingdom.
- 48 Subsection (4) provides that a delivery company to which this section applies commits an offence if they do not deliver a corrosive product into the hands of a person aged 18 or over. Subsection (10) sets out the penalties for this offence.

- 49 Subsections (5) to (9) set out the defences that apply to this offence, which differ depending on whether the delivery company is charged with an offence in England and Wales, Scotland or Northern Ireland.
- 50 Subsection (11) provides that proceedings in Scotland for an offence under subsection (4) have to be commenced no later than 12 months following the commission of the offence.
- 51 This Section forms part of the law of the United Kingdom.

Section 5: Presumptions in proceedings in Scotland for offence under section 1, 3 or 4

- 52 This section provides for certain evidential presumptions in Scotland relating to the nature of substances that are, or were, in containers in relation to offences under Sections 1, 3 or 4 involving a corrosive product.
- 53 Subsections (2) and (3) makes provision for the circumstances in which the evidential presumption applies.
- 54 Subsection (2) provides that where a substance is found in a container which has on it a description of its contents, then it is presumed the substance found is as described. This applies whether the container is open or sealed.
- 55 Subsection (3) provides that where an open container is found and it is empty or there is an insufficient amount of a substance to allow analysis, any description as to the contents found on the container is presumed to identify the contents accurately. The operation of this evidential presumption requires the container to have been sealed at the time it was either sold or delivered.
- 56 Subsections (4) and (5) provide that any party to proceedings can rebut the presumption but they must do so by giving notice of their intention to lead evidence for this purpose at least 7 days prior to trial.

Possession of corrosive substances

Section 6: Offence of having a corrosive substance in a public place

- 57 Subsection (1) of this section provides that a person commits an offence if they are in possession of a corrosive substance in a public place. A “corrosive substance” is a substance which is capable of burning human skin by corrosion.
- 58 Subsection (2) provides that it is a defence in England and Wales and Northern Ireland for the person charged to prove they had good reason or lawful authority for having the corrosive substance with them in a public place.
- 59 Subsection (3) provides that it is a defence in England and Wales and Northern Ireland for the person charged to prove that they had the corrosive substance with them for use at work.
- 60 Subsection (4) provides that it is a defence in Scotland for a person charged with the offence in Scotland to show they had a reasonable excuse or lawful authority for having the corrosive substance with them in a public place.
- 61 Subsection (5) provides that it is a defence in Scotland for the person charged to show that they had the corrosive substance with them for use at work.
- 62 Subsection (6) provides that in relation to a person charged in Scotland, the accused will be considered to have shown they had a reasonable excuse or lawful authority where they have produced sufficient evidence to raise an issue in relation to the defence and the contrary has not been proved beyond reasonable doubt.

- 63 The offence is triable either way. On summary conviction in England and Wales a person is liable to a term of imprisonment not exceeding 12 months or to a fine or both, and in Scotland to a term of imprisonment not exceeding 12 months or to a fine not exceeding the statutory maximum or both. In Northern Ireland the maximum sentence is 6 months imprisonment, a fine not exceeding the statutory maximum or both. The maximum 12-month sentence in England and Wales is contingent on section 154(1) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months. On conviction on indictment in England and Wales, Scotland and Northern Ireland a person is liable to imprisonment for a term not exceeding 4 years, to a fine or both.
- 64 Subsection (9) defines a corrosive substance and a public place for the purposes of section 6. There is a different definition of public place in England, Wales and Northern Ireland from that which applies to Scotland.
- 65 This section forms part of the law of the United Kingdom.

Section 7: Presumptions in proceedings in Scotland for offence under section 6

- 66 This section provides for certain evidential presumptions in Scotland in relation to an offence under section 6.
- 67 Subsections (2) and (3) make provision for the circumstances in which the evidential presumption applies.
- 68 Subsection (2) provides that where a substance is found in a container which has on it a description of its contents, then it is presumed the substance found is as described. This applies whether the container is open or sealed.
- 69 Subsections (3) and (4) provide that:
- where an open container is found,
 - a substance has been removed from the container such as being poured out,
 - the container is either empty or there is an insufficient amount of a substance to allow analysis, and
 - there is a description as to the contents found on the container;

then it is presumed the description as to the contents identifies the contents accurately as they were immediately prior to the removal of the substance from the container.

- 70 Subsections (5) and (6) provide that any party to proceedings can rebut the presumption, but they must do so by giving notice of their intention to lead evidence for that purpose at least 7 days prior to trial.

Section 8: Appropriate custodial sentence for conviction under section 6

- 71 Subsection (1) of this section provides that, where a person who is 16 years of age or older is convicted in England and Wales of an offence under section 6 and has at least one relevant conviction (as set out in section 9) then the court must impose an appropriate custodial sentence, which may also include a fine, unless the court decides that there are particular circumstances which would make it unjust to do so.
- 72 Subsection (3) makes provision that the “appropriate custodial sentence” is a custodial sentence of at least 6 months imprisonment for an offender aged 18 years of age or older. For an offender aged 16 or 17 years old, the appropriate custodial sentence is a detention and training order of at least 4 months duration.

- 73 Subsection (4) provides that, in the case of an individual aged 16 or 17 years old, when considering whether there are particular circumstances which would make imposing an appropriate custodial sentence unjust, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 which sets out that “Every court in dealing with a child or young person who is brought before it, either as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.”.
- 74 Subsections (5) and (6) set out the procedure for appealing against a sentence where a relevant conviction that was relied on by the court when imposing an appropriate custodial sentence has been set aside on appeal.
- 75 Subsection (7) provides that the requirement to impose an appropriate custodial sentence only applies to an offence committed after this section has come into force.
- 76 Subsection (8) provides that where an offence was committed under section 6 (a) over a period of two or more days or (b) at some time during a period of two or more days then for the purposes of this section the offence will have said to have been committed on the last of those days.
- 77 This section forms part of the law of England and Wales.

Section 9: Offence under section 6: relevant convictions

- 78 Section 9 sets out the offences for which a conviction amounts to a “relevant conviction” for the purposes of section 8, including offences relating to the armed forces.
- 79 Subsection (5) makes contingent amendments to the section in consequence of the UK leaving the EU.
- 80 This section forms part of the law of England and Wales.

Sections 10 to 12: Search for corrosive substances

- 81 These Sections provide law enforcement officers in England and Wales, Scotland and Northern Ireland with appropriate investigative and enforcement powers in relation to the offence of possessing a corrosive substance in a public place.
- 82 Section 10 amends section 1 of the Police and Criminal Evidence Act 1984 (power of constable to stop and search persons, vehicles etc) to allow for stop and search powers (and, if appropriate, seizure powers) to be used for substances in relation to which a person has committed, or is going to commit, an offence under section 6 of this Act (offence of having a corrosive substance in a public place).
- 83 Section 11 provides, in Scotland, a power for a constable who has reasonable grounds for suspecting that a person is carrying a corrosive substance and has committed or is committing an offence under section 6 (offence of having a corrosive substance in a public place) to search the person, detain the person for such time as is reasonably required to carry out the search and seize and retain any corrosive substance found. It also provides for offences in Scotland of obstructing a constable in their exercise of these powers and concealing a corrosive substance from a constable.
- 84 Section 12 amends Article 3 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (power of constable to stop and search persons, vehicles etc.), to allow for stop and search powers to be used in respect of the prevention or detection of an offence under section 6 of this Act (offence of having a corrosive substance in a public place).

- 85 These sections form part of the law of the United Kingdom. Section 10 forms part of the law of England and Wales. Section 11 forms part of the law of Scotland. Section 12 forms part of the law of Northern Ireland.

Section 13: Consequential amendments relating to corrosive products and substances

- 86 Section 13 makes consequential amendments to the Prevention of Crime Act 1953, the Mental Health Act 1983, the Criminal Justice Act 1988, the Criminal Procedure (Scotland) Act 1995, the Powers of Criminal Courts (Sentencing) Act 2000 and the Criminal Justice Act 2003. These include providing that a conviction under section 6 of this Act (having a corrosive substance in a public place) is a “relevant conviction” for the purposes of those sentencing provisions and that the court should take account of the considerations in section 8(2) of this Act in appropriate cases. For proceedings for the offence in Scotland, a certificate that a product or substance is of a particular kind is treated as sufficient evidence of that fact.
- 87 This section forms part of the law of England, Wales and Scotland.

Part 2: Knife Crime Prevention Orders

- 88 Part 2 makes provision (sections 14 to 33) for the introduction of new civil orders, Knife Crime Prevention Orders (“KCPO”), to enable prohibitions and requirements to be imposed by the courts on individuals convicted of an offence involving violence or where a bladed article was used or carried in the commission of the offence, or where individuals have not been convicted of an offence but there is evidence that they have had a bladed article with them on two or more occasions and they pose a risk of harm or offending involving a bladed article. The rationale for creating these orders is to enable law enforcement bodies and the courts to take tougher action against those involved in knife crime, and to protect individuals from the harm caused by knife crime by preventing future offending. Along with prohibitions, KCPOs may include positive requirements to get individuals to deal with the underlying causes of their behaviour.

Section 14: Knife crime prevention order made otherwise than on conviction

- 89 This section provides the court with a power to make KCPOs in cases other than on conviction. A KCPO may be made against any person aged 12 or over and are made by a magistrates’ court where the respondent is an adult or by a youth court where the respondent is under 18 (subsections (1) and (10)).
- 90 Section 14 sets out the conditions that must be met for the court to make a KCPO. Firstly, the court must be satisfied that an application has been made in accordance with section 15 (subsection (2)). The application is made by complaint. Subsection (9) provides that the time limits imposed by section 127 of the Magistrates’ Courts Act 1980 do not apply to such a complaint.
- 91 Secondly, the court must be satisfied, on the balance of probabilities (the civil standard of proof), that the respondent has, on at least two occasions in the relevant period, had a bladed article with them in a public place, on school premises or on further education premises without good reason or lawful authority (subsection (3)). A bladed article is an article to which section 139 of the Criminal Justice Act 1988 applies and the relevant period is two years preceding the date on which the order is made (subsection (4)).
- 92 Thirdly, subsection (6) requires the court to think it necessary to make the order to protect the public generally, or particular persons (including the respondent), from risk of physical or psychological harm involving a bladed article or to prevent the respondent from committing an offence involving a bladed article.

- 93 The purpose of the order is to prohibit or require the respondent to do anything described in the order for these protective purposes (subsection (7)).
- 94 This section forms part of the law of England and Wales.

Section 15: Requirements for application for order under section 14

- 95 This section sets out the requirements for an application for a KCPO (otherwise than on conviction) to be made. An application may only be made by the relevant chief officer of police, the chief constable of the British Transport Police or the chief constable of the Ministry of Defence Police. The relevant chief officer of police is defined in subsection (2). A chief officer of police must make the application to the court acting for their local justice area (subsection (3)).
- 96 The applicant must consult with the local youth offending team (“YOT”) before making an application, if the KCPO is in respect of someone under the age of 18 (subsections (4) to (6)). The consultation requirement does not give a veto power to the local YOT.
- 97 This section forms part of the law of England and Wales.

Section 16: Application without notice

- 98 Applications for a KCPO will normally be made following the giving of notice to the respondent, however this section allows the applicant to make an application for a KCPO without giving such notice (subsection (1)). Without notice applications should, in practice, only be made in exceptional or urgent circumstances and the applicant will need to produce evidence to the court as to why a without notice hearing is necessary.
- 99 Where a without notice application is made, the court may adjourn the proceedings, adjourn the proceedings and grant an interim KCPO pending a full hearing following the giving of notice to the respondent, or dismiss the application (subsection (3)).
- 100 The applicant is not required to comply with the YOT consultation requirement in section 15(4) to (6) of the Act before making such an application. However, the applicant must meet the consultation requirement before the first full hearing, of which the respondent will have been notified (subsection (4)).
- 101 This section forms part of the law of England and Wales.

Section 17: Interim knife crime prevention order: application without notice

- 102 This section deals with the court’s powers to grant an interim KCPO where it adjourns the hearing of an application which has been made without notice. This will usually occur where a without notice hearing has been sought to prevent imminent harm or abscondment. An adjournment may be necessary to enable further information to be gathered ahead of a full hearing and to enable the respondent to attend a full hearing.
- 103 The court can only grant an interim KCPO following a without notice application where it considers it necessary to do so ((subsection (3)). Subsections (4) and (5) provide that such order may impose such prohibitions as may be imposed in a full KCPO (and as the court thinks are required) but may not include any positive requirements. The court is not required to be satisfied of the conditions set out in section 14(3) and (6).
- 104 This section forms part of the law of England and Wales.

Section 18: Interim knife crime prevention order: application not determined

105 This section deals with the court's powers to grant an interim KCPO where it adjourns a hearing of which notice has been given to the respondent. It allows the court to grant an interim KCPO if an application has also been made, by complaint, for an interim KCPO (either at the same time as the full application or subsequently) and the court considers that it is just to make such an order (subsections (1) to (5)). For example, the court may make an interim KCPO in a case where it is satisfied it is necessary to protect a person from immediate harm pending the full determination of the application for the order. The court is not required to be satisfied of the conditions set out in section 14(3) and (6).

106 Subsection (6) provides that an interim KCPO granted as the result of an adjournment of an on notice hearing may include any prohibition or requirement that the court has the power to include in a full KCPO and which the court thinks appropriate.

107 Subsection (7) disapplies the time limits imposed by section 127 of the Magistrates' Courts Act 1980 in respect of complaints made under this section.

108 This section forms part of the law of England and Wales.

Section 19: Knife crime prevention order made on conviction

109 This section provides the court with a power to make KCPOs following a conviction. A KCPO may be made against a person aged 12 or over by any court dealing with the defendant in respect of the conviction (e.g. a crown court, a magistrates' court or a youth court).

110 Section 19 sets out the conditions that must be met for the court to make a KCPO on conviction. Firstly, the court must be satisfied, on the balance of probabilities (the civil standard of proof), that the defendant has committed a relevant offence (subsection (1)(b)). A relevant offence is an offence involving violence (or the threat of violence) or where a bladed article was used or carried by the defendant or any other person in the commission of the offence (subsection (10)). A bladed article is an article to which section 139 of the Criminal Justice Act 1988 applies.

111 Secondly, an application must have been made by the prosecution (subsection (3)); the court may not make an order on its own volition. This would normally be at the instigation of the police.

112 Thirdly, subsection (4) requires the court to think it necessary to make the order to protect the public generally, or particular persons (including the defendant), from the risk of physical or psychological harm involving a bladed article or to prevent the defendant from committing an offence involving a bladed article.

113 The purpose of the order is to prohibit or require the defendant to do anything described in the order for the specified protective purposes (subsection (5)).

114 An order may only be made against a defendant when he or she has been sentenced for the offence or given a conditional discharge (subsection (7)). The court can consider evidence which was inadmissible in the criminal proceedings (subsections (8) and (9)). This could include hearsay or bad character evidence.

115 This section forms part of the law of England and Wales.

Section 20: Requirement to consult on application for order under section 19

116 Section 20 imposes a formal requirement for the prosecution to consult with the local youth offending team ("YOT") before making an application for a KCPO on conviction if the defendant is under the age of 18 (subsection (2)). The consultation requirement does not give a veto power to the local YOT.

117 This section forms part of the law of England and Wales.

Section 21: Provisions of knife crime prevention order

- 118 The nature of any prohibition or requirement included in a KCPO or interim KCPO is a matter for the court to determine. However, a court may only include prohibitions or requirements which it is satisfied are necessary for the purpose of protecting the public in England and Wales generally, or particular persons, from the risk of physical or psychological harm involving a bladed article or to prevent the respondent from committing an offence involving a bladed article (subsection (1)).
- 119 Subsection (2) sets out a list of possible effects requirements could have on a respondent, including a curfew or obligation to be in a particular place at a particular time ((2)(a) and (b)), presenting oneself to particular persons as required ((2)(c)) and participation in activities ((2)(d)). Further provision in respect of requirements is made by section 22.
- 120 Subsection (4) lists possible effects of prohibitions, such as provision of an exclusion zone ((4)(a)), non-association with other individuals ((4)(b)), non-participation in particular activities ((4)(c)), preventing the respondent from using or having particular articles ((4)(d)) or preventing the respondent from using the internet to facilitate or encourage crime involving bladed articles ((4)(e)). An order may include exceptions to such prohibitions (subsection (6)).
- 121 Subsection (7) makes it clear that the lists of prohibitive or restrictive effects contained within subsections (2) and (6) are non-exhaustive.
- 122 Subsection (8) provides that prohibitions or requirements should, so far as practicable, avoid conflict with religious beliefs of the respondent and their work or educational commitments.
- 123 This section forms part of the law of England and Wales.

Section 22: Requirements included in knife crime prevention order etc

- 124 Section 22 makes further provision in relation to requirements imposed under a KCPO or interim KCPO.
- 125 The order must specify the person (an individual or an organisation) who is to be responsible for supervising the respondent's compliance with the requirement and, before imposing the requirement, the court must receive evidence on the suitability and enforceability of the requirement from this person (subsections (1) – (3)). Before imposing multiple requirements, a court must consider their compatibility (subsection (4)).
- 126 It is the duty of the specified person to make any necessary arrangements in connection with the requirement, to promote the respondent's compliance and to notify the police if the respondent fails to so comply (subsection (5)). Subsection (7) sets out the respondent's responsibilities to maintain contact with the specified person and to inform them of any change of home address.
- 127 This section forms part of the law of England and Wales.

Section 23: Duration of knife crime prevention order etc

- 128 This section provides for the duration of a KCPO or interim KCPO and the prohibitions and requirements in it. Generally, a KCPO or interim KCPO takes effect on the day it is made (subsection (1)), however interim KCPOs made without notice do not take effect until they are served (subsection (2)) and a KCPO or interim KCPO made in respect of a defendant remanded in or committed to custody, who is subject to a sentence or who is on licence, may provide that it takes effect at a later date (subsections (6) and (7)).

129 An interim KCPO ceases to have effect once the main application is determined or the order is otherwise varied, renewed or discharged (subsections (4) and (5)). A KCPO must specify its duration and must last for a fixed period of at least 6 months but no more than 2 years (subsection (3)). The prohibitions and requirements specified in a KCPO or interim KCPO may each have different duration (subsection (8)).

130 This section forms part of the law of England and Wales.

Section 24: Notification requirements

131 This section provides that a person subject to a KCPO or an interim KCPO must notify the police, within three days of the order taking effect, of their name(s) and home address (subsections (1) to (3)).

132 Subsections (4) to (6) require a person to similarly notify the police, within three days, of any subsequent changes to this information; specifically, the use of a new name, a change to their home address or an address at which they will live for one month or more. Notification is given orally by attending at a police station in a police area in which the person lives (subsection (7)).

133 This section forms part of the law of England and Wales.

Section 25: Offences relating to notification

134 Subsection (1) makes it an offence for a person to fail, without reasonable excuse, to comply with the notification requirements in section 24 or to notify the police of false information. The standard of proof is the criminal standard (beyond reasonable doubt).

135 The maximum penalty for breach of the notification requirements is 12 months imprisonment or a fine or both on summary conviction, or two years imprisonment or a fine or both following conviction on indictment (subsections (2) and (3)). The maximum 12-month sentence on summary conviction is contingent on section 154(1) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months.

136 Subsections (4) to (6) provide that a person commits an offence on the first day on which they fail to notify, and continue to commit the offence for the duration of the continued failure, but may only be prosecuted once in respect of the same offence.

137 This section forms part of the law of England and Wales.

Section 26: Review of knife crime prevention order

138 This section enables the court to set review hearings for KCPOs which the applicant and respondent must attend (subsection (2)). The purpose of review hearings is to consider whether the KCPO should be varied or discharged (subsection (5)).

139 Subsections (3) and (4) require the court to set a review hearing if any prohibition or requirement of a KCPO lasts for more than one year from the date on which the KCPO took effect. The review hearing must be held within the last four weeks of the one year period.

140 Subsection (6) provides that the provisions in section 27(7) to (9) (conditions for variation, renewal or discharge of a KCPO) apply to variation at a renewal hearing. A court may therefore only impose an additional prohibition or requirement at review if it is satisfied it is necessary to do so to protect the public in England and Wales, generally or a particular person, from harm involving a bladed article or to prevent the defendant from committing an offence involving a bladed article.

141 This section forms part of the law of England and Wales.

Section 27: Variation, renewal or discharge of knife crime prevention order etc

- 142 A court may vary, renew or a discharge a KCPO or interim KCPO upon application by the person subject to the order or the police (including the British Transport Police and Ministry of Defence Police) (subsections (1) and (2)). The application must be made to the appropriate court, as defined in subsection (11). This section ensures that the order can be modified to reflect changing circumstances, both to ensure that it remains effective to manage the risk posed by activities related to knife crime and that it remains necessary for that purpose.
- 143 Where the individual concerned is under 18, the relevant Youth Offending Team must be consulted before an application for variation, renewal or discharge is made (unless the application is made by the individual themselves) (subsection (4)).
- 144 The applicant and the person in respect of whom the order is made have a right to be heard by the court (subsection (5)).
- 145 A renewal or variation may take a number of forms, including the addition of a new prohibition or requirement or the removal of an existing one (subsections (6) and (7)). However, the court must be satisfied that such additional prohibition or requirement is necessary to protect the public in England and Wales generally, or particular persons, from risk of harm involving a bladed article or to prevent offending involving a bladed article (subsection (7)). Sections 21, 22 and 23 also apply to any additional prohibitions or requirements imposed (subsections (8) and (9)).
- 146 The court may also discharge the order (subsection (6)). However, an order may not be discharged within 6 months of it taking effect without the consent of the subject of the order and the relevant chief officer of police (subsection (10)).
- 147 This section forms part of the law of England and Wales.

Section 28: Appeal against knife crime prevention order etc

- 148 Section 28 makes provision for appeal against a KCPO.
- 149 Where a KCPO or an interim KCPO is made otherwise than on conviction, the applicant or respondent may appeal against the making of the order, or refusal to make such an order, to the Crown Court (subsections (1) and (2)).
- 150 Where a KCPO is made on conviction, the defendant may appeal against the making of the order as if the order were a sentence (subsection (3)).
- 151 The applicant or defendant may appeal against a decision to vary, renew or discharge an order, or a refusal to do so, to the Crown Court or, where the application was made to the Crown Court, to the Court of Appeal (subsections (4) and (5)).
- 152 Subsection (6) sets out the powers of the Crown Court when determining an appeal. The court may make such orders as it considers necessary to give effect to the determination of the appeal and such incidental and consequential orders as it considers appropriate.
- 153 This section forms part of the law of England and Wales.

Section 29: Offence of breaching knife crime prevention order etc

- 154 Section 29 makes it an offence for a person to breach (that is, to do anything which is prohibited by or fail to do anything which is required by) a KCPO or interim KCPO without reasonable excuse. The court must be satisfied beyond reasonable doubt the individual has, without reasonable excuse, breached the order.

155 The maximum penalty for a breach is twelve months imprisonment or a fine or both on summary conviction, or two years imprisonment or a fine or both following conviction on indictment (subsection (2)). Subsection (4) precludes the court from making an order for a conditional discharge following a conviction for an offence under this section. The maximum 12-month sentence on summary conviction is contingent on section 154(1) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months (subsection (3)).

156 This section forms part of the law of England and Wales.

Section 30: Guidance

157 Section 30 provides the Secretary of State with a power to issue guidance to those entitled to apply for KCPOs (the police, including the British Transport Police Force and the Ministry of Defence Police) in relation to the exercise of their functions (subsections (1) and (2)). Subsection (4) requires all applicant authorities to have regard to such guidance.

158 The Secretary of State is required to publish such guidance (subsection (4)); it is not subject to any Parliamentary procedure.

159 This section forms part of the law of England and Wales.

Section 31: Piloting

160 Section 31 imposes two conditions which must be met before the KCPO provision of the Act (Part 2) can be brought into force across the whole of England and Wales.

161 Firstly, the KCPO provisions must be piloted in one or more areas in England and Wales or for one or more purposes (subsection (2)).

162 Secondly, the Secretary of State must lay a report before Parliament on the operation of the pilot (subsection (3)).

163 This section forms part of the law of England and Wales.

Section 32: Consequential amendments

164 Section 32 details the consequential amendments required to existing legislation.

165 Subsection (1) amends the Prosecution of Offences Act 1985 to make conduct of applications for KCPOs on conviction a function of the Director of Public Prosecutions.

166 Subsection (2) amends the Criminal Legal Aid (General) Regulations 2013 to make provision in respect of legal aid for KCPO proceedings.

167 This section forms part of the law of England and Wales.

Section 33: Interpretation of Part

168 This section defines the meaning of a number of expressions used in Part 2 of the Act.

Part 3: Sale and delivery of knives

Section 34: Sale etc of bladed articles to persons under 18

169 Section 34 amends section 141A of the Criminal Justice Act 1988 (“the CJA”) and the equivalent Northern Ireland legislation. Section 141A(1) of the CJA provides that it is an offence in England and Wales to sell knives and certain articles with a blade or sharp point to persons under the age of 18

170 The amendment has the effect of prohibiting the sale of all offensive weapons under section 141 (weapons such as knuckledusters, swordsticks and handclaws) to a person under 18 by removing the exemption for section 141 weapons from section 141A of the CJA, (and the equivalent Northern Ireland legislation).

171 This closes a legal gap created by the defences to section 141 (such as for antique weapons, historical re-enactment and sporting activities) which would otherwise permit, in some circumstances, the sale of these particularly dangerous weapons to an under 18.

172 This section forms part of the law of the United Kingdom.

Section 35: Defence to sale of bladed articles to persons under 18: England and Wales

173 Section 141A(1) of the Criminal Justice Act 1988 (“the CJA”) provides that it is an offence in England and Wales to sell knives and certain articles with a blade or sharp point to persons under the age of 18. Section 141A(4) provides a defence to that offence where the person charged can prove they took all reasonable precautions and exercised all due diligence to avoid committing the offence.

174 Section 35 inserts a new section 141B into the CJA which modifies the operation of this defence where the sale is carried out remotely. A remote sale is any sale where the seller or a person acting on the seller’s behalf was not in the presence of the buyer at the point of sale. This includes, for example, when the sale was made online, by mail order or over the telephone, and applies to both individuals and companies.

175 In order to be able to rely on this defence, the accused must meet all of the conditions set out below:

- Condition A is that, at the time the offence is alleged to have been committed (the sale) the seller had a system in place to check that the buyer was not under the age of 18 and that the system in place would be likely to prevent anyone under the age of 18 from purchasing bladed articles.
- Condition B is that, when the package containing the article was dispatched by the seller, the package was clearly marked in a way that indicated it contained a bladed article and, that, when finally delivered, it should only be delivered into the hands of a person aged 18 or over.
- Condition C is that the seller took all reasonable precautions and exercised all due diligence to ensure that, when finally delivered, the package would be delivered into the hands of a person aged 18 or over.
- Condition D is that the seller did not deliver the package, or arrange for its delivery, to a locker. A “locker” is defined in subsection (9).

176 This section forms part of the law of England and Wales.

Section 36: Defence to sale etc of bladed articles to persons under 18: Scotland

177 Section 141A(1) of the Criminal Justice Act 1998 (“the CJA”) provides that it is an offence in Scotland to sell knives or certain articles with a blade or point to persons under the relevant age. For a knife or knife blade designed for domestic use the relevant age is 16, in any other case the relevant age is 18.

178 Section 141A (3A) provides it is not an offence to sell or hire a knife or knife blade designed for domestic use to a person aged 16 or over. Section 141A(4) provides a defence for a person charged with this offence to prove that they believed the person to whom the product was sold was of or above the relevant age and had either taken reasonable steps to establish the purchaser's age or no reasonable person, based on the purchaser's appearance, could have suspected they were under 18.

179 Section 36 amends subsections (3A) and (4) to exclude from the exclusion and defence sales or hiring carried out remotely. It also inserts new section 141C into the CJA which provides a defence to the section 141A offence in the context of remote sales of bladed or pointed articles when Conditions A to D are met. A remote sale is any sale where the seller or person acting on the seller's behalf was not in the presence of the buyer at the point of sale. This includes, for example, when the sale was made online, by mail order or over the telephone, and applies to both individuals and companies.

180 In order to be able to rely on this defence, the accused must meet the conditions below:

- Condition A is that, at the time the offence is alleged to have been committed, the seller operated a system for checking that recipients of purchased or hired articles were not under the age of 18, and that such a system was likely to prevent persons under the age of 18 from buying or hiring such articles.
- Condition B is that the package containing the article, when dispatched by the seller, was clearly marked to indicate that it contained an article with a blade or which was sharply pointed (as the case may be), and when finally delivered, it should only be delivered into the hands of a person aged 18 or over.
- Condition C is that the seller took all reasonable precautions and exercised all due diligence to ensure that, when finally delivered, the package would only be delivered to a person aged 18 or over.
- Condition D is that the seller did not deliver the package, or arrange for its delivery, to a locker. A locker is defined in subsection (10).

181 This section forms part of the law of Scotland.

Section 37: Defence to sale of bladed articles to persons under 18: Northern Ireland

182 Article 54 of the Criminal Justice (Northern Ireland) Order 1996 provides that it is an offence to sell or hire specific articles with a blade or point to persons under the age of 18 years. Paragraph (4) of that Article provides a defence for a person charged with this offence, to prove that they took all reasonable precautions and exercised due diligence to avoid the commission of the offence.

183 Section 37 amends Article 54 to place certain limitations on the defence where the sale or hiring is carried out remotely and inserts a new Article 54A which sets out those limitations. A remote sale is any sale where the seller or person acting on the seller's behalf was not in the presence of the buyer at the point of sale. This includes, for example, when the sale was made online, by mail order or over the telephone, and applies to both individuals and companies.

184 In order to be able to rely on this defence, the accused must meet all of the conditions set out below.

- Condition A – at the time the offence is alleged to have been committed, the seller operated a system for checking that those who bought articles under Article 54 were not under the age of 18 and the system was likely to prevent persons under the age of 18 from buying such articles by that method

- Condition B – when the package containing the article was dispatched, the seller had clearly marked it to indicate that it contained an article with a blade or with a sharp point and that, when finally delivered, it should only be delivered into the hands of a person aged 18 or over;
- Condition C – the seller took all reasonable precautions and exercised all due diligence to ensure that, when finally delivered, the package would be delivered into the hands of a person aged 18 or over;
- Condition D – the seller did not deliver the package, or arrange for its delivery, to a locker.

185 Paragraph (8) of new Article 54A defines the term “final delivery” and paragraph (9) defines the term “locker”.

186 This section forms part of the law of Northern Ireland.

Section 38: Delivery of bladed products to residential premises etc

187 This section makes provision in relation to a new offence for UK based sellers and the delivery of bladed products to residential premises. It provides that where a sale is carried out remotely, it is an offence for a seller to deliver or arrange for the delivery of a bladed product to a residential premise or to a locker, subject to the defences set out in section 40 of the Act (subsections (2) and (3)).

188 Section 38 applies where a seller or person acting on the seller’s behalf sells a bladed product to another person, and they are not in each other’s presence at the time of the sale (i.e. the sale was made remotely, whether by telephone or online). A bladed product is an article which is or has a blade and is capable of causing serious injury to a person by cutting of the skin (section 41).

189 Subsection (4) makes provision to ensure that the offence applies to both individuals and companies by specifying when a seller is “not in the presence” of the buyer.

190 Subsections (5) to (7) set out the definitions of “residential premises” and “lockers”. Importantly, where a person carries on a business from a premises it is not a residential premises. This will ensure that those individuals whose business operates from their home address will continue to be able to receive delivery of bladed products which may be required for their business.

191 Subsections (8) to (9) specify the penalties for this offence. The maximum penalty on summary conviction in England and Wales is 51 weeks imprisonment or a fine or both and on summary conviction in Scotland or Northern Ireland, is six months imprisonment or a fine not exceeding level 5 on the standard scale or both. The 51 weeks maximum sentence in England and Wales is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months.

192 This section forms part of the law of the United Kingdom.

Section 39: Delivery of bladed products to persons under 18

193 This section makes provision in relation to a new offence for delivery companies related to delivery of bladed products following remote sales by UK based sellers.

194 The section provides that where a sale is carried out remotely by a UK based seller, and a delivery company has entered into arrangements with the seller to deliver bladed products, the delivery company commits an offence if they deliver those products to a person aged under 18 (subsection (1) and (6)). A bladed product is an article which is or has a blade and is capable of causing serious injury to a person by cutting of the skin (section 41).

195 Subsection (1) sets out the conditions for this offence to apply. These include that the sale must be remote, the delivery company must have entered into arrangements with the UK based seller before the sale and must have been aware that the arrangement covered the delivery of a bladed product (subsection (1)(a) to (e)).

196 Subsection (7) specifies the penalties for this offence. A person guilty of an offence is liable on summary conviction in England and Wales, to a fine and on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

197 This section is subject to the defences provided for in section 40.

198 This section forms part of the law of the United Kingdom.

Section 40: Defences to offence under section 38 or 39

199 This section sets out the defences available to a seller for the offence of delivering, or arranging delivery of, a bladed product to a residential premises (section 38) and to a delivery company for the offence of delivering a bladed product to persons under 18 (section 39).

200 Subsection (1) provides a defence where the seller took all reasonable precautions and exercised all due diligence to avoid the delivery of a bladed product to a residential premise (the offence under section 38).

201 Subsection (2) applies where a UK based seller delivers a bladed product to a residential premises themselves. It provides a defence to the offence under section 38 where the seller can show that they had arrangements in place that were likely to ensure that the item would be handed to a person aged 18 or over and took all reasonable precautions and exercised all due diligence to ensure this happened on delivery. This permits delivery of bladed products to residential premises where age verification takes place at the point of delivery.

202 Subsection (3) applies where a UK based seller arranges the delivery of a bladed product to a residential premises by a delivery company. It provides a defence to the offence under section 38 where the seller can show that they had arrangements in place which required the deliverer to have procedures in place which were likely to ensure that the item would be handed to a person aged 18 or over and that they (the seller) took all reasonable precautions and exercised all due diligence to ensure the item was handed to a person aged 18 or over on delivery. This permits delivery of bladed products to residential premises where age verification takes place at the point of delivery.

203 Subsections (4) to (6) provide defences for a seller charged with delivery or arranging delivery of a bladed product to residential premises (under section 38) where:

- the bladed product was designed, manufactured or adapted for the buyer in accordance with specifications provided by the buyer (subsections (4) and (5)). These defences are aimed at bespoke, handmade knives such as specialist chef's knives; or
- the bladed product is for use for relevant sporting purposes or for historic re-enactment (subsection (6)). Historical re-enactment is defined in subsection (14) and relevant sporting purposes are defined in subsection (15).

204 Subsection (7) provides a defence for delivery companies to the offence of delivering a bladed product to an under 18 (section 39) in England, Wales and Northern Ireland, where they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

205 Subsection (8) provides a defence for delivery companies to the offence of delivering a bladed product to an under 18 (section 39) in Scotland, where they can show that they believed the person they delivered the product to was aged 18 or over and took reasonable steps to establish that persons age or could not reasonably have suspected the person was under the age of 18. Subsections (9) and (10) specify conditions to be met for a person to be treated as having taken reasonable steps.

206 Subsections (11) and (12) make provision for the burden of proof that will apply to an accused person in Scotland who seeks to rely on the defences in this section.

207 Subsections (13) and (14) provide the Secretary of State, Department of Justice in Northern Ireland and Scottish Ministers with the power to create further defences to the section 38 and 39 offences by regulations.

208 This section forms part of the law of the United Kingdom.

Section 41: Meaning of “bladed product” in sections 38 to 40

209 For the purposes of sections 38 to 40 of the Act, a “bladed product” is an article which is or has a blade and which is capable of causing serious injury to a person’s skin by cutting (subsection (1)). Bladed articles not falling within this definition can continue to be delivered to residential premises.

210 Subsection (2) excludes from the definition of bladed product those articles covered by section 1 of the Restriction of Offensive Weapons Act 1959 (flick knives and gravity knives). It also excludes items described in an order made under section 141A(3)(c) of the Criminal Justice Act 1988 because these items are excluded from the prohibition on the sale of bladed articles to a person under 18.

211 This section forms part of the law of the United Kingdom.

Section 42: Delivery of bladed articles to persons under 18

212 This section makes provision in relation to a new offence for delivery companies related to delivery of bladed articles following remote sales by overseas sellers.

213 Section 42 applies to delivery companies that have entered into an arrangement with a seller of bladed articles, who is outside of the United Kingdom, to deliver bladed articles to buyers in the United Kingdom. This only applies to bladed articles that have been sold when the seller, or person acting on the seller’s behalf, and the buyer have not been in each other’s presence at the time of the sale (i.e. the sale was made remotely, whether by telephone or online).

214 Subsection (2) makes provision to ensure that the offence in subsection (4) applies to both individuals and companies.

215 Subsection (3) sets out when a person other than an individual is outside the United Kingdom.

216 Subsection (4) provides that it is a criminal offence if the delivery company to which this section applies does not deliver the bladed article into the hands of a person aged 18 or over.

217 Subsections (5) to (9) set out the defences that apply to this offence, which differ depending on whether the delivery company is charged with an offence in England and Wales, Scotland or Northern Ireland. In England, Wales and Northern Ireland it is a defence to show that the delivery company took all reasonable precautions and exercised all due diligence to avoid the commission of the offence (subsection (5)). In Scotland, the accused must show that they believed the person they delivered the article to was aged 18 or over and either took reasonable steps to establish that persons age or could not reasonably have suspected the person was under the age of 18 (subsections (6) to (9)).

218 Subsection (10) sets out the penalties for this offence. The maximum penalty on summary conviction in England and Wales is a fine, and on summary conviction in Scotland or Northern Ireland is a fine not exceeding level 5 on the standard scale.

219 Subsection (11) provides the definition of a bladed article for the purposes of this section, which includes knives and certain articles with a blade or sharp point.

220 This section forms part of the law of the United Kingdom.

Part 4: Possession etc of certain offensive weapons

Section 43: Amendments to the definition of “flick knife”

221 Subsection (1) of section 43 amends the definition of a “flick knife” in section 1 of the Restriction of Offensive Weapons Act 1959 (penalties for offences in connection with dangerous weapons) to include any knife that opens automatically from a closed position, or partially opened position to a fully opened position, by means of any manual pressure that is applied to a button, spring or other device which is contained either within the knife or is attached to the knife.

222 Subsection (2) makes corresponding amendment to the definition of a flick knife contained within Article 53 of the Criminal Justice (Northern Ireland) Order 1996 (manufacture or sale etc of certain knives).

223 This section forms part of the law of the United Kingdom.

Section 44: Prohibition on the possession of certain dangerous knives

224 Section 44 makes it an offence to possess any knife under section 1 of the Restriction of Offensive Weapons Act 1959 (e.g. gravity knives and flick knives) and the equivalent legislation in Northern Ireland. The offence applies to possession in both public and private.

225 Subsection (2) amends the 1959 Act to insert the new offence and sets out the penalties for the offence in England and Wales and Scotland. The maximum penalty on summary conviction in England and Wales is 51 weeks imprisonment or a fine or both and on summary conviction in Scotland is six months imprisonment or a fine not exceeding level 4 on the standard scale or both. The 51 weeks maximum sentence in England and Wales is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months.

226 Subsection (4) provides for various defences to the existing and new offences relating to flick knives and gravity knives under the 1959 Act which will enable museums and galleries to possess, lend and hire such knives.

227 Subsections (5) to (7) amend Article 53 of the Criminal Justice (Northern Ireland) Order 1996 to insert the new possession offence, new defences to enable museums and galleries to possess, lend and hire such knives and penalties in Northern Ireland. The maximum penalty on summary conviction is 12 months imprisonment, a fine not exceeding the statutory maximum or both and on conviction on indictment to imprisonment for a term not exceeding 4 years or a fine or both.

228 This section forms part of the law of the United Kingdom.

Section 45: Prohibition on the possession of offensive weapons on further education premises

- 229 This section amends section 139A of the Criminal Justice Act 1988 (“the CJA”) (offence of having an article with a blade or point or offensive weapon on school premises) to extend the offence in England and Wales and Northern Ireland to include further education premises (subsections (1) to (4)).
- 230 Subsection (5) amends the penalties in section 139A of the CJA in England, Wales and Northern Ireland. The maximum penalty in England and Wales is, on summary conviction, a term of imprisonment not exceeding 12 months or a fine or both. The 12 months maximum sentence is contingent on section 154(1) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months. The maximum penalty in Northern Ireland is, on summary conviction, a term of imprisonment not exceeding 12 months or a fine not exceeding the statutory maximum or both and on conviction on indictment, imprisonment for a term not exceeding 4 years or a fine, or both.
- 231 Subsection (6) defines “school premises” as land used for the purposes of a school, excluding any land occupied solely as a dwelling by a person employed at the school. “School” is defined in England and Wales under section 4 of the Education Act 1996 and in Northern Ireland under Article (2) of the Education and Libraries (Northern Ireland) Order 1986.
- 232 Subsection (7) inserts a new subsection (6A) into section 139A of the CJA which defines “further education premises”. New subsection (6A)(a) sets out that, in England and Wales, “further education premises” includes land used solely for the purposes of an institution within the further education sector (as defined in section 91 of the Further and Higher Education Act 1992) or a 16 to 19 Academy (as defined by the Academies Act 2010), excluding any land occupied solely as a dwelling by a person employed at the institution or Academy.
- 233 New subsection (6A)(b) sets out that, in relation to Northern Ireland, “further education premises” 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.
- 234 Subsection (8) amends section 139B(1) of the CJA to provide constables with a power to enter and search further education premises, and any persons on those premises, for offensive weapons, bladed or pointed articles.
- 235 This section forms part of the law of England and Wales and Northern Ireland.

Section 46: Prohibition on the possession of offensive weapons

- 236 Section 141 of the Criminal Justice Act 1988 (“the CJA”) provides that it is an offence to manufacture, sell, hire, offer to sell or hire, possess for the purposes of sale or hire, import, lend or give weapons to which that section applies. The weapons to which that section applies are set out in the Criminal Justice Act 1988 (Offensive Weapons) Order 1988, and include items such as a knuckleduster, handclaw and swordstick.
- 237 Section 46 creates an offence of possession in private of a weapon to which section 141 of the CJA applies. In private is defined in the new subsections (1C), (1D) and (1E) of section 141. In England and Wales, this is any place other than a public place, school premises, further education premises or prison.

238 Subsection (2) inserts new subsections (1A) to (1F) into section 141 of the CJA. New subsection (1A) provides that any person who possesses a weapon to which the section applies in private is guilty of an offence and liable:

- on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine or to both, or
- 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,
- on summary conviction in Northern Ireland a term of imprisonment not exceeding 12 months or a fine not exceeding the statutory maximum, or both and on conviction on indictment to imprisonment for a term not exceeding four years or to a fine or to both.

239 The 51 week maximum sentence in England and Wales is contingent on section 281(5) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months (new subsection (1B)).

240 New subsections (1C) to (1F) set out relevant definitions, including the meaning of possession in private, domestic premises, further education premises and school premises.

241 Subsections (4), (5) and (7) insert new subsections into section 141 of the CJA to provide defences for private possession of items of historical importance, for possession by museums or galleries and for educational purposes.

242 Subsection (17) adds the new offence under section 141(1A) of the CJA to the list in Article 29(1)(l) of the Magistrates' Courts (Northern Ireland) Order 1981. This means there will be no right to elect for trial by jury in Northern Ireland for this new offence.

243 Subsections (18) and (19) make contingent provision in the event that section 46(2) of this Act (the new offence of possession of offensive weapons in private) is commenced before section 60(1)(b) of the Custodial Sentences and Weapons (Scotland) Act 2007 comes into force.

244 This section forms part of the law of the United Kingdom.

Section 47: Prohibition on the possession of offensive weapons: supplementary

245 Section 47 makes amendments to the Schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 (SI 1988/2019). These amendments are, in part, consequential to the amendments made to section 141 of the Criminal Justice Act 1988 "(the CJA)" by section 46 of this Act. The 1988 Order specifies weapons to which section 141 of the CJA applies and also makes provision for defences to the offence in section 141(1) of the CJA (manufacture, sale or hire of offensive weapons).

246 Subsection (2) adds knives known as "zombie knives" to the Schedule to the 1988 Order. The effect of this is to make their manufacture, sale or hire, importation, and possession in private, an offence in Northern Ireland (their manufacture, sale or hire is already prohibited in England and Wales). Subsection (3) adds knives known as "cyclone knives", to the Schedule to the 1988 Order, making their manufacture, sale or hire, importation and possession in private, an offence in England, Wales and Northern Ireland.

247 Subsections (4) to (7) amend the operation of the defences in the 1988 Order so that they apply to the new offence of private possession of a weapon created by section 46 of this Act in relation to England and Wales and Northern Ireland. They also amend the use for "religious ceremonies" defence to permit use for "religious reasons".

248 Subsection (8) sets out a new defence to section 141(1) of the CJA for a person of Sikh faith who presents another person with a curved sword (as covered by section 141 of the CJA) in a religious ceremony or other ceremonial event. It also provides a defence to the offence of possession in private for Sikhs possessing such swords for the purposes of presenting them to others at a ceremony and for the recipients (whether a Sikh or non-Sikh) to possess swords that have been presented to them.

249 The section also provides a defence for the ancillary acts covered by section 141(1) of the CJA 1988 (manufacture, sale, hire) and section 50(2) and (3) of the Customs and Excise Management Act 1979 (importation) where those acts are for the purposes of enabling the gifting by a Sikh to another person by presentation at a religious ceremony or other ceremonial event. These defences enable the lawful ceremonial gifting of large kirpans by the Sikh community.

250 Subsections (11) to (14)) make consequential amendments to the Criminal Justice Act 1988 (Offensive Weapons) (Scotland) Order 2005 (SSI 2005/483).

251 This section forms part of the law of the United Kingdom.

Section 48: Surrender of prohibited offensive weapons

252 Section 48 provides the Secretary of State, Scottish Ministers and the Department of Justice in Northern Ireland with the power to make appropriate arrangements to secure the surrender of weapons which will become unlawful to possess due to the operation of sections 44 and 46 (by themselves or in combination with sections 43 and 47 respectively) (subsections (1) to (3)).

253 Subsection (4) makes provision for the Chief Officer of Police for any force area in England and Wales and Scotland to designate any police station in their force's area as being suitable for the receipt of surrendered weapons or surrendered weapons of a particular description. Chief Officer of Police includes the Chief Constable of the Police Service of Scotland.

254 Subsection (5) makes provision for the Chief Constable of the Police Service of Northern Ireland to designate any police station in Northern Ireland as being suitable for the receipt of surrendered weapons generally or surrendered weapons of a particular description.

255 This section forms part of the law the United Kingdom.

Section 49: Payments in respect of surrendered offensive weapons

256 Section 49 applies if the Secretary of State, Scottish Ministers or the Department of Justice in Northern Ireland make arrangements for the surrender of weapons in accordance with section 48 (surrender of prohibited offensive weapons).

257 Subsections (2) to (6) provide that the Secretary of State, Scottish Ministers and the Department of Justice in Northern Ireland must, by regulations, provide for payments to be made in respect of weapons which are surrendered in accordance with such arrangements.

258 Subsections (7) to (10) provide that payments may only be made when a claim for compensation meets specific criteria.

259 Subsection (11) sets out the provision that may be made by regulations under subsections (2) or (6), which includes restricting eligibility to receive compensation payments and the procedure to be followed to determine claims.

260 This section forms part of the law of the United Kingdom.

Part 5: Threatening with offensive weapons

Section 50: Offence of threatening with offensive weapon etc in a public place etc

261 Section 1A of the Prevention of Crime Act 1953 provides for an offence of threatening with an offensive weapon in a public place. Section 139AA of the Criminal Justice Act 1988 provides for offences of threatening with a bladed or pointed article in a public place and threatening with an offensive weapon and bladed article on school premises. It is a necessary element of these offences that the defendant threatened the victim with the weapon “in such a way that there is an immediate risk of serious physical harm to the victim”.

262 Section 50 amends these offences to replace the requirement of the threat causing an immediate risk of serious physical harm to the victim, with a requirement that the threat is such that a reasonable person who was exposed to it would think that they were at risk of immediate physical harm.

263 This section forms part of the law of England and Wales.

Section 51: Offence of threatening with offensive weapon etc on further education premises

264 Section 139AA of the Criminal Justice Act 1988 provides for offences of threatening with a bladed article in a public place and threatening with an offensive weapon and bladed or pointed article on school premises.

265 Section 51 amends section 139AA of the 1988 Act to introduce a new offence that has the effect of extending the offence of threatening to further education premises in England and Wales. Further education premises and school premises are defined in subsection (4).

266 This section forms part of the law of England and Wales.

Section 52: Offence of threatening with an offensive weapon etc in a private place

267 Section 52 creates a new offence of threatening another person with an offensive weapon, bladed or pointed article or corrosive substance in a private place in such a way that there is an immediate risk of serious physical harm (subsections (1) and (2)).

268 Subsection (3) provides that for offensive weapons and bladed or pointed articles a private place means any place other than a public place or school or further education premises. Subsection (4) provides that for a corrosive substance, private place means anywhere other than a public place.

269 Subsection (6) prescribes penalties. The offence is punishable on summary conviction to a term not exceeding 12 months or a fine or both and on indictment to a term of imprisonment of up to 4 years, or by a fine or by both. The 12 months maximum sentence is contingent on section 154(1) of the Criminal Justice Act 2003 coming into force and until that time the maximum sentence will be six months.

270 Subsection (8) sets out the definitions of “corrosive substance”, “further education premises”, “school premises” and “public place”.

271 This section forms part of the law of England and Wales.

Section 53: Search for corrosive substance on school or further education premises

272 Section 53 provides powers for the police to enter and search school premises or further education premises or any person on them in relation to the offence of threatening with a corrosive substance. It also provides powers for police to seize and retain a substance which a constable has reasonable grounds for suspecting is a corrosive substance.

273 This section forms part of the law of England and Wales.

These Explanatory Notes relate to the Offensive Weapons Act 2019 (c. 17) which received Royal Assent on 16 May 2019

Part 6: Firearms

Section 54: Prohibition of certain firearms etc: England and Wales and Scotland

274 Section 5 of the Firearms Act 1968 sets out a list of prohibited weapons. These are subject to more rigorous controls than other firearms, and the possession of a prohibited weapon is unlawful without the authority of the Secretary of State.

275 Section 54 amends this list to include certain rapid firing rifles with a lever release action or manually actuated release system (subsection 2).

276 Subsection (3) amends this list to include bump stocks and sets out the definition of a bump stock which is a device used to increase the rate of fire of a self-loading weapon.

277 Subsections (4) to (8) make consequential amendments to the 1968 Act to accommodate the amended list of prohibited firearms, which includes provision in respect of sentencing of offenders.

278 This section forms part of the law of Great Britain.

Section 55: Prohibition of certain firearms etc: Northern Ireland

279 Section 55 makes equivalent provision to section 54 in respect of Northern Ireland through amendments to the Firearms (Northern Ireland) Order 2004 (SI 2004/702 (NI 3)).

280 The extent of this section is Northern Ireland.

Section 56: Consequential amendments relating to sections 54 and 55

281 Section 56 and Schedule 2 make consequential amendments to other Acts relating to sections 54 and 55.

Section 57: Surrender of prohibited firearms etc

282 Section 57 provides the Secretary of State with the power to make appropriate arrangements to secure the surrender of weapons which will become unlawful to possess by virtue of sections 54 and 55, and of any ancillary equipment (as defined in section 60(2) of this Act) .

283 Subsections (2) and (3) provide chief officers of police, and the Chief Constable of the Police Service of Northern Ireland (PSNI), with the power to designate police stations as being suitable for the receipt of surrendered firearms or ancillary equipment.

284 This section forms part of the law of the United Kingdom.

Section 58: Payments in respect of surrendered firearms other than bump stocks

285 Section 58 applies if the Secretary of State makes arrangements for the surrender of firearms (other than bump stocks) in accordance with Section 57.

286 Subsection (3) provides that the Secretary of State must, by regulations, provide for payments to be made in respect of firearms which are surrendered in accordance with such arrangements.

287 Subsections (4) to (7) provide that regulations made under subsection (3) must provide that a payment may only be made to a person making a claim which meets specific criteria.

288 Subsection (8) sets out the provision that may be made by regulations made under subsection (3) which includes restricting eligibility to receive compensation payments and the procedure to be followed to determine claims.

289 This section forms part of the law of the United Kingdom.

Section 59: Payments in respect of prohibited firearms which are bump stocks

290 Section 59 applies if the Secretary of State makes arrangements for the surrender of bump stocks in accordance with section 57.

291 Subsection (3) provides that the Secretary of State must, by regulations, provide for payments to be made in respect of firearms which are surrendered in accordance with such arrangements.

292 Subsections (4) to (8) provide that regulations made under subsection (3) must provide that payment may only be made to a person making a claim which meets specific criteria.

293 Subsection (9) sets out the provision that may be made by regulations made under subsection (3) which includes restricting eligibility to receive compensation payments and the procedure to be followed to determine claims.

294 This section forms part of the law of the United Kingdom.

Section 60: Payments in respect of ancillary equipment

295 Subsection (1) of section 60 provides the Secretary of State with a power to make provision, by regulations, for payments in respect of any ancillary equipment used in connection with firearms prohibited under sections 54 and 55 and which has no practicable use in connection with any firearm which is not a prohibited weapon..

296 Subsection (2) sets out the definition of ancillary equipment, which excludes ammunition which is prohibited by section 5 of the Firearms Act 1968.

297 Subsections (3) to (5) provide that regulations made under subsection (1) may only be made when a claim for compensation meets specific conditions.

298 Subsections (6) and (7) set out the provision that may be made by regulations under subsection (1) which includes conditions of eligibility and the procedure to be followed to determine claims.

299 This section forms part of the law of the United Kingdom.

Section 61: Conditions applying to certain firearms: England and Wales and Scotland

300 Subsections (1) and (2) of section 61 insert a new section, 27A, into the Firearms Act 1968 which requires the Secretary of State to make rules under section 53 of that Act prescribing conditions for the safe storage and transit of certain firearms, commonly known as high muzzle energy rifles. A firearm certificate relating to a firearm to which the new section 27A applies, must be granted or renewed subject to such conditions. Before making such rules, the Secretary of State must consult with persons likely to be affected.

301 Subsection (3) amends section 53 of the Firearms Act 1968 (rules for implementing the Act) so that any statutory instrument containing rules which prescribe conditions of the kind mentioned in section 27A is subject to the negative resolution procedure.

302 This section forms part of the law of Great Britain

Section 62: Conditions applying to certain firearms: Northern Ireland

303 Section 62 makes similar provision to section 61 in respect of Northern Ireland through amendments to the Firearms (Northern Ireland) Order 2004.

304 The extent of this section is Northern Ireland

Section 63: Interpretation of Part

305 These sections are self-explanatory.

Part 7: Enforcement

Section 64: Enforcement of offences relating to sale etc of offensive weapons

- 306 Section 64 confers a power on a local weights and measures authority to enforce within its area the provisions listed in subsection (2) relating to the sale etc of offensive weapons.
- 307 Subsection (4) provides that nothing in the section should be interpreted as authorising a local weights and measures authority to bring proceedings in Scotland for an offence
- 308 Subsection (5) confers the investigatory powers in Schedule 5 to the Consumer Rights Act 2015 on a local weight and measures authority for the purposes of enforcing the provisions listed in subsection (2).
- 309 For the meaning of a local weights and measures authority see section 69 of the Weights and Measures Act 1985.
- 310 This section forms part of the law of the United Kingdom.

Section 65: Application of Regulatory Enforcement and Sanctions Act 2008

- 311 Section 65 applies Parts 1 and 2 of the Regulatory Enforcement and Sanctions Act 2008 to the provisions listed in section 64(2) of this Act to the extent that Part 1 or 2 of that Act does not otherwise apply in relation to those provisions.
- 312 This section forms part of the law of the United Kingdom.

Part 8: Supplementary

Section 66: Guidance on offences relating to offensive weapons etc

- 313 Section 66 enables the Secretary of State, the Scottish Ministers and the Department of Justice in Northern Ireland to issue guidance about the operation of offences relating to the sale and delivery, importation and possession of offensive weapons and corrosives. Before issuing such guidance, the relevant national authority (being the Secretary of State, the Scottish Ministers or the Department of Justice in Northern Ireland) must consult such persons likely to be affected as they consider appropriate (subsection 6) and must arrange for any guidance issued under this section to be published in such manner as the authority thinks appropriate (subsection (7)). Guidance issued under this section may from time to time be revised (subsection 4).
- 314 This section forms part of the law of the United Kingdom.

Section 67: Consequential amendments relating to armed forces

- 315 Section 67 amends the Armed Forces Act 2006 to provide that the criminal conduct offences that can be dealt with at summary hearings will include the new offences provided for by this Act in relation to the possession of offensive weapons and corrosive substances, and sale and delivery of corrosive products and delivery of bladed products.
- 316 This section forms part of the law of the United Kingdom.

Section 68: Regulations and orders

- 317 Subsection (2) of section 68 sets out that any regulations made under this Act by the Secretary of State are subject to the Parliamentary affirmative resolution procedure.
- 318 Subsections (3) and (4) set out whether the regulations to be made by Scottish Ministers are subject to the affirmative or negative procedure within the meaning of section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010.

These Explanatory Notes relate to the Offensive Weapons Act 2019 (c. 17) which received Royal Assent on 16 May 2019

319 Subsections (5) to (7) provide for the making of regulations in Northern Ireland.

320 Subsection (8) provides that regulations or an order under this Act: may make different provision for different cases, may make transitional, transitory or savings provision and may make incidental, supplementary or consequential provision.

321 Subsection (9) sets out that subsections (2) and (8) of this section do not apply to regulations or an order made under section 70 (commencement).

Section 69: Extent

322 This section sets out the extent of the provisions of the Act (see Annex A for further details).

323 Subsections (8) and (9) enable the amendments to the Armed Forces Act 2006 made by section 67 to be extended, with or without modifications, to any of the Channel Islands and provides power to modify that Act, as amended by section 67, as that section extends to the Isle of Man or a British overseas territory.

Section 70: Commencement

324 This section sets out when the different sections of the Act come into force.

325 Subsection (1) sets out that, subject to section 31 and subsections (2), (3) and (5), the Act comes into force on such day as the Secretary of State appoints by way of regulations.

326 Subsection (2) sets out the provisions that come into force, so far as extending to Scotland, when Scottish Ministers appoint by way of regulations.

327 Subsection (3) sets out the provisions that come into force, so far as extending to Northern Ireland, when the Department of Justice in Northern Ireland appoints by way of order.

328 Subsection (5) sets out the provisions in the Act which come into force on Royal Assent.

Section 71: Short title

329 Section 71 sets out that the Act will be known as the Offensive Weapons Act 2019.

Schedules

Schedule 1: Corrosive Products

330 Schedule 1 consists of a table of corrosive substances and their concentrations. For the purposes of sections 1 to 4 of the Act, a corrosive product is a substance listed in the first column of Schedule 1, or a product that contains a substance listed in the first column of Schedule 1 in a concentration higher than that set out in the second column of Schedule 1.

331 The list in Schedule 1 was developed with the chemists at the Defence Science and Technology Laboratory (Dstl). The chemical substances set out in Schedule 1 includes corrosive substances which we know have been used in attacks and also those which have the potential to be used as a weapon to inflict permanent and life changing injuries on people.

Schedule 2: Consequential amendments relating to sections 54 and 55

332 Schedule 2 details the consequential amendments to other Acts relating to sections 54 and 55 of this Act, this concerns the prohibition of certain firearms.

Commencement

333 Section 70 sets out the various commencement provisions for sections contained within this Act, including provision for Scottish Ministers and the Department of Justice in Northern Ireland to commence various provisions as they extend to Scotland and Northern Ireland and for the provisions set out in section 70(5) to come into force on Royal Assent.

Related documents

334 The following documents are relevant to the Act and can be read at the stated locations:

- All documents relating to the Act, including the impact assessment can be found on the Act webpage at: <https://services.parliament.uk/Bills/2017-19/offensiveweapons.html>
- All documents relating to the Act, including the European Convention for Human Rights Memorandum and Delegated Powers Memorandum can be found on gov.uk at: <https://www.gov.uk/government/publications/offensive-weapons-bill-2018-overarching-documents>
- Supplemental European Convention for Human Rights Memorandum on Knife Crime Prevention Order can be found on the UK Parliament website at: [Supplemental ECHR Memorandum KCPOs.pdf \(parliament.uk\)](#)
- Serious Violence Strategy: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698009/serious-violence-strategy.pdf
- Offensive Weapons Consultation: <https://www.gov.uk/government/consultations/offensive-and-dangerous-weapons-new-legislation>

Annex A – Territorial extent and application in the United Kingdom

335 Subject to certain exceptions, the provisions of the Act extend and apply to England and Wales, Scotland and Northern Ireland where indicated in the table below. For the purposes of English Votes for English Laws (EVEL) sections 8 to 10, relating to the possession of corrosive substances, Section 13(1), (2), (4), (6) and (7) relating to consequential amendments on corrosives, Part 2 in relation to Knife Crime Prevention Orders, section 35 on the sale of bladed articles to those aged under 18, Part 5 in relation to threatening with an offensive weapon and paragraphs 7 and 8 of Schedule 2 and section 56 so far as relating to those paragraphs, extend and apply to England and Wales only.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 1	Yes	Yes	Yes	Yes
Section 2	Yes	Yes	Yes	Yes
Section 3	Yes	Yes	Yes	Yes
Section 4	Yes	Yes	Yes	Yes
Section 5	No	No	Yes	No
Section 6	Yes	Yes	Yes	Yes
Section 7	No	No	Yes	No
Section 8	Yes	Yes	No	No
Section 9	Yes	Yes	No	No
Section 10	Yes	Yes	No	No
Section 11	No	No	Yes	No
Section 12	No	No	No	Yes
Section 13	In part	In part	In part	In part
Section 14	Yes	Yes	No	No
Section 15	Yes	Yes	No	No
Section 16	Yes	Yes	No	No
Section 17	Yes	Yes	No	No
Section 18	Yes	Yes	No	No
Section 19	Yes	Yes	No	No
Section 20	Yes	Yes	No	No
Section 21	Yes	Yes	No	No
Section 22	Yes	Yes	No	No
Section 23	Yes	Yes	No	No
Section 24	Yes	Yes	No	No

These Explanatory Notes relate to the Offensive Weapons Act 2019 (c. 17) which received Royal Assent on 16 May 2019

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 25	Yes	Yes	No	No
Section 26	Yes	Yes	No	No
Section 27	Yes	Yes	No	No
Section 28	Yes	Yes	No	No
Section 29	Yes	Yes	No	No
Section 30	Yes	Yes	No	No
Section 31	Yes	Yes	No	No
Section 32	Yes	Yes	No	No
Section 33	Yes	Yes	No	No
Section 34	In part	In part	In part	In part
Section 35	Yes	Yes	No	No
Section 36	In part	In part	Yes	In part
Section 37	No	No	No	Yes
Section 38	Yes	Yes	Yes	Yes
Section 39	Yes	Yes	Yes	Yes
Section 40	Yes	Yes	Yes	Yes
Section 41	Yes	Yes	Yes	Yes
Section 42	Yes	Yes	Yes	Yes
Section 43	In part	In part	In part	Yes
Section 44	In part	In part	In part	In part
Section 45	Yes	Yes	No	Yes
Section 46	In part	In part	In part	In part
Section 47	In part	In part	In part	In part
Section 48	Yes	Yes	Yes	Yes
Section 49	Yes	Yes	Yes	Yes
Section 50	Yes	Yes	No	No
Section 51	Yes	Yes	No	No
Section 52	Yes	Yes	No	No
Section 53	Yes	Yes	No	No
Section 54	Yes	Yes	Yes	No
Section 55	No	No	No	Yes
Section 56	In part	In part	In part	In part
Section 57	Yes	Yes	Yes	Yes

These Explanatory Notes relate to the Offensive Weapons Act 2019 (c. 17) which received Royal Assent on 16 May 2019

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 58	Yes	Yes	Yes	Yes
Section 59	Yes	Yes	Yes	Yes
Section 60	Yes	Yes	Yes	Yes
Section 61	Yes	Yes	Yes	No
Section 62	No	No	No	Yes
Section 63	Yes	Yes	Yes	Yes
Section 64	Yes	Yes	Yes	No
Section 65	Yes	Yes	No	No
Section 66	Yes	Yes	Yes	Yes
Section 67	Yes	Yes	Yes	Yes
Section 68	Yes	Yes	Yes	Yes
Section 69	Yes	Yes	Yes	Yes
Section 70	Yes	Yes	Yes	Yes
Section 71	Yes	Yes	Yes	Yes
Schedule 1	Yes	Yes	Yes	Yes
Schedule 2	In part	In part	In part	In part

These Explanatory Notes relate to the Offensive Weapons Act 2019 (c. 17) which received Royal Assent on 16 May 2019

Annex B – Hansard References

336 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	20 June 2018	Vol. 643 Col. 352
Second Reading	27 June 2018	Vol. 643 Col. 916
Public Bill Committee	17 July 2018	Col.31
Report and Third Reading	28 November 2019	Vol. 650 Col. 280
<i>House of Lords</i>		
Introduction	29 November 2018	Vol. 794
Second Reading	7 January 2019	Vol. 794 Col. 2024
Grand Committee	28 January 2019	Vol. 795 Col. 150GC
Report	26 February 2019	Vol. 796 Col. 156
Third Reading	19 March 2019	Vol 796 Col. 1,376
Commons Consideration of Lords Amendments	26 March 2019	Vol. 657 Col. 227
Royal Assent	16 May 2019	House of Commons Vol. 660 Col. 367
		House of Lords Vol. 797 Col. 1647

These Explanatory Notes relate to the Offensive Weapons Act 2019 (c. 17) which received Royal Assent on 16 May 2019

Annex C – Progress of Bill Table

337 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 3	Clause 3	Clause 3	Clause 3	Clause 3	Clause 3
Section 4	Clause 4	Clause 4	Clause 4	Clause 4	Clause 4
Section 5		Clause 5	Clause 5	Clause 5	Clause 5
Section 6	Clause 5	Clause 6	Clause 6	Clause 6	Clause 6
Section 7		Clause 7	Clause 7	Clause 7	Clause 7
Section 8	Clause 6	Clause 8	Clause 8	Clause 8	Clause 8
Section 9	Clause 7	Clause 9	Clause 9	Clause 9	Clause 9
Section 10	Clause 8	Clause 10	Clause 10	Clause 10	Clause 10
Section 11	Clause 9	Clause 11	Clause 11	Clause 11	Clause 11
Section 12	Clause 10	Clause 12	Clause 12	Clause 12	Clause 12
Section 13	Clause 11	Clause 13	Clause 13	Clause 13	Clause 13
Section 14					Clause 14
Section 15					Clause 15
Section 16					Clause 16
Section 17					Clause 17
Section 18					Clause 18
Section 19					Clause 19
Section 20					Clause 20
Section 21					Clause 21
Section 22					Clause 22
Section 23					Clause 23
Section 24					Clause 24
Section 25					Clause 25
Section 26					Clause 26
Section 27					Clause 27
Section 28					Clause 28
Section 29					Clause 29
Section 30					Clause 30
Section 31					Clause 31
Section 32					Clause 32

These Explanatory Notes relate to the Offensive Weapons Act 2019 (c. 17) which received Royal Assent on 16 May 2019

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 33					Clause 33
Section 34				Clause 14	Clause 34
Section 35	Clause 12	Clause 14	Clause 14	Clause 15	Clause 35
Section 36	Clause 13	Clause 15	Clause 15	Clause 16	Clause 36
Section 37	Clause 14	Clause 16	Clause 16	Clause 17	Clause 37
Section 38	Clause 15	Clause 17	Clause 17	Clause 18	Clause 38
Section 39					
Section 40	Clause 16	Clause 18	Clause 18	Clause 19	Clause 39
Section 41	Clause 17	Clause 19	Clause 19	Clause 20	Clause 40
Section 42	Clause 18	Clause 20	Clause 20	Clause 21	Clause 41
Section 43	Clause 19	Clause 21	Clause 21	Clause 22	Clause 42
Section 44	Clause 20	Clause 22	Clause 22	Clause 23	Clause 43
Section 45	Clause 21	Clause 23	Clause 23	Clause 24	Clause 44
Section 46	Clause 22	Clause 24	Clause 24	Clause 25	Clause 45
Section 47	Clause 23	Clause 25	Clause 25	Clause 26	Clause 46
Section 48	Clause 24	Clause 26	Clause 26	Clause 27	Clause 47
Section 49	Clause 25	Clause 27	Clause 27	Clause 28	Clause 48
Section 50	Clause 26	Clause 28	Clause 28	Clause 29	Clause 49
Section 51	Clause 27	Clause 29	Clause 29	Clause 30	Clause 50
Section 52			Clause 30	Clause 31	Clause 51
Section 53			Clause 31	Clause 32	Clause 52
Section 54	Clause 28	Clause 30	Clause 32	Clause 33	Clause 53
Section 55	Clause 29	Clause 31	Clause 33	Clause 34	Clause 54
Section 56	Clause 30	Clause 32	Clause 34	Clause 35	Clause 55
Section 57	Clause 31	Clause 33	Clause 35	Clause 36	Clause 56
Section 58	Clause 32	Clause 34	Clause 36	Clause 37	Clause 57
Section 59	Clause 33	Clause 35	Clause 37	Clause 38	Clause 58
Section 60	Clause 34	Clause 36	Clause 38	Clause 39	Clause 59
Section 61					Clause 60
Section 62					Clause 61
Section 63	Clause 35	Clause 37	Clause 39	Clause 40	Clause 62
Section 64				Clause 41	Clause 63
Section 65				Clause 42	Clause 64
Section 66					Clause 65
Section 67	Clause 36	Clause 38	Clause 40	Clause 43	Clause 66

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Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 68	Clause 37	Clause 39	Clause 41	Clause 44	Clause 67
Section 69	Clause 38	Clause 40	Clause 42	Clause 45	Clause 68
Section 70	Clause 39	Clause 41	Clause 43	Clause 46	Clause 69
Section 71	Clause 40	Clause 42	Clause 44	Clause 47	Clause 70
Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1
Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2

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