



Offensive Weapons Act 2019

2019 CHAPTER 17

PART 3

SALE AND DELIVERY OF KNIVES ETC

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

- (1) The Criminal Justice Act 1988 is amended as follows.
- (2) In section 141A (sale or letting on hire of bladed articles to persons under 18) as that section has effect in Scotland, in each of subsections (3A) and (4), for “It” substitute “Except where section 141C applies, it”.
- (3) After section 141B (inserted by section 35(3)) insert—

“141C Defence to offence under section 141A where remote sale or letting on hire: Scotland

- (1) This section applies if—
 - (a) a person (“the accused”) is charged with an offence under section 141A (sale or letting on hire of bladed articles to persons under 18), and
 - (b) the accused was not in the presence of the person (“the recipient”) to whom the article to which the charge relates was sold or let on hire at the time of the sale or letting on hire.
- (2) For the purposes of subsection (1)(b) the accused was not in the presence of the recipient at the time of the sale or letting on hire if—
 - (a) where the accused is an individual, the accused or a person acting on the accused’s behalf was not in the presence of the recipient at that time;
 - (b) where the accused is not an individual, a person acting on the accused’s behalf was not in the presence of the recipient at that time.

Status: This is the original version (as it was originally enacted).

- (3) It is a defence for the accused to show that the conditions in subsections (5) to (8) are met.
 - (4) The accused is to be taken to have shown a matter mentioned in subsections (5) to (8) if—
 - (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
 - (5) Condition A is that, at the time the offence is alleged to have been committed—
 - (a) the accused operated a system for checking that persons who bought or hired articles to which section 141A applied by the same or a similar method of purchase or hire to that used by the recipient were not under the age of 18, and
 - (b) that system was likely to prevent persons under the age of 18 from buying or hiring such articles by that method.
 - (6) Condition B is that when the package containing the article was dispatched by the accused, it was clearly marked to indicate—
 - (a) that it contained an article with a blade or which was sharply pointed (as the case may be), and
 - (b) that, when finally delivered, it should only be delivered into the hands of a person aged 18 or over.
 - (7) Condition C is that the accused 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.
 - (8) Condition D is that the accused did not deliver the package, or arrange for its delivery, to a locker.
 - (9) Where the article to which section 141A applied was dispatched by the accused to a place from which it was to be collected by the recipient or a person acting on behalf of the recipient, references in subsections (6) and (7) to the final delivery of the article are to be read as its supply to the recipient, or a person acting on behalf of the recipient, from that place.
 - (10) In subsection (8) “locker” means a lockable container to which the package was delivered with a view to its collection by the recipient, or a person acting on behalf of the recipient, in accordance with arrangements made between the accused and the recipient.”
- (4) In section 172(4) (provisions which extend only to Scotland) after the entry for section 141ZA insert—
“section 141C;”.