

EXPLANATORY MEMORANDUM TO
**THE CRIMINAL JUSTICE ACT 1988 (OFFENSIVE WEAPONS) (AMENDMENT,
SURRENDER AND COMPENSATION) ORDER 2024**

2024 No. 583

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Chris Philp MP, Minister of State for Crime, Policing and Fire, at the Home Office confirms that this explanatory memorandum meets the required standard.

2.2 Nick Hunt, Head of Firearms and Weapons Policy Unit, at the Home Office confirms that this explanatory memorandum meets the required standard.

3. Contact

3.1 Esperanza Gomez at the Home Office at Esperanza.Gomez@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument adds certain types of knives and machetes – ‘zombie style knives and machetes’ - which are designed to look menacing and which do not have a practical use, to the list of offensive weapons by amending the Criminal Justice Act 1988 (Offensive Weapons) Order 1988.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is England and Wales.

4.3 The territorial application of this instrument is England and Wales.

5. Policy Context

What is being done and why?

5.1 The primary policy objective is to support public safety. Police forces advise that there has been an increase in the number of ‘zombie style knives and machetes’ used in the commission of criminal offences. The availability, aesthetic appeal and low cost of these weapons have made them one of the weapons of choice for youths with criminal intentions.

5.2 The Government is concerned by the increasing availability and proliferation of these weapons and seeks to introduce a complete ban to support public safety.

5.3 The Government has decided to legislate in order to reduce the availability of such weapons for criminal purposes.

- 5.4 The Government will introduce arrangements to allow those who lawfully own ‘zombie style knives and machetes’ to surrender these items in a secure and orderly way. Recognising that it is both right and fair to compensate lawful owners for surrender of their property, the Government is making these arrangements for the payment of compensation (for claims which amount to £30 or more). The standard compensation amount for each surrendered weapon will be £10, though applicants will be able to claim that the value of their weapon exceeds this amount. The standard value of £10 was set, for the purposes of the Offensive Weapons Act 2019 Surrender and Compensation scheme, following consultation with weapons experts from the Royal Armouries. We have maintained this amount for the present surrender and compensation scheme.

What was the previous policy, how is this different?

- 5.5 The Government prohibited zombie knives in 2016. This ban sought to remove from the market knives with both plain and serrated cutting edges which also contained images that suggested that the weapon was to be used for violence. However, some manufacturers and retailers sought to remove the images from the weapons and continued to sell the same or similar articles. ‘Zombie style knives and machetes’ typically have both serrated and cutting edges, as well as other features such as spikes, holes and/or multiple sharp points, which seem to appeal to those who wish to use these weapons in crime. The legislation in this instrument will ban knives and machetes over eight inches in length that contain these features.
- 5.6 The Government’s intention is not to ban the types of knives that are designed as tools and we are confident that the description of ‘zombie style knives and machetes’ in this instrument does not capture machetes and knives that are designed for practical uses in agriculture, farming, outdoor pursuits, etc.

6. Legislative and Legal Context

How has the law changed?

- 6.1 Under section 141 of the Criminal Justice Act 1988, it is an offence to possess in private, manufacture, sell, hire, lend or give a weapon specified in an Order made under that section. The importation of any such weapon is also prohibited. A number of descriptions of weapons have been specified under section 141, including butterfly knives, knuckledusters and certain types of swords.
- 6.2 This instrument will add ‘zombie style knives and machetes’ to the list of prohibited offensive weapons.

Why was this approach taken to change the law?

- 6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 A public consultation¹ opened on 18 April 2023 to seek views on five legislative proposals to tackle machetes and large knives used in crime:

¹https://assets.publishing.service.gov.uk/media/64492e6f814c66000c8d0720/CONSULTATION_DOCUMENT_-_LEGISLATIVE_PROPOSALS_-_MACHETES_-_1804_1_.pdf

- Proposal 1: Introduction of a targeted ban of certain types of large knives that seem to be designed to look menacing with no practical purpose.
- Proposal 2: Whether additional powers should be given to the police to seize, retain and destroy lawfully held bladed articles of a certain length if these are found by the police when in private property lawfully and they have reasonable grounds to believe that the article(s) is (are) likely to be used in a criminal act.
- Proposal 3: Whether there is a need to increase the maximum penalty for the importation, manufacture, sale and supply of prohibited offensive weapons (s141 of the Criminal Justice Act 1988 and s1 Restriction of Offensive Weapons Act 1959) and the offence of selling bladed articles to persons under 18 (s141A of the Criminal Justice Act 1988) to 2 years, to reflect the severity of these offences.
- Proposal 4: Whether the Criminal Justice System should treat possession in public of prohibited knives and offensive weapons more seriously.
- Proposal 5: Whether there is a need for a separate possession offence of bladed articles with the intention to injure or cause fear of violence with a maximum penalty higher than the current offence of possession of an offensive weapon under s1 of the PCA 1953.

7.2 The consultation ran for seven weeks and closed on 6 June 2023. The consultation was open to the public and received a total of 2,544 responses. We wrote to over 150 stakeholders directly inviting them to provide input, and raised awareness of the consultation through the media, Parliament and various stakeholder groups. Prior to and during the consultation, we engaged with key Criminal Justice System partners and directly affected businesses and organisations, including retailers, distributors and manufacturers. We listened closely to the views of those directly affected by the devastating effects of knife crime. This was to ensure a wide range of views could be considered for policy development.

7.3 The Government's response ² to the consultation was published on 30 August 2023 and provides details on all questions asked. Most of the responses were supportive of the proposals. Concerns were expressed in relation to the proposal to ban 'zombie style' machetes. However, whilst only 37 per cent agreed with the proposal, the 63 per cent of respondents who selected that they did not agree with the proposal did so because they were concerned that any restrictions on machetes should not infringe upon the legitimate activities of those who wish to use machetes as tools.

7.4 The Government is confident that the description of 'zombie style' knives and machetes in the SI will allow the majority of people who use machetes as tools for legitimate reasons to be able to continue to do so, and those who use knives that are captured by the ban for legitimate reasons will be able to find an appropriate alternative.

7.5 We will keep the list of prohibited offensive weapons under review, including whether there is operational need to extend the ban to particular swords and other bladed articles or offensive weapons in the future.

²https://assets.publishing.service.gov.uk/media/64f0b08cfdc5d1000d284951/Government_Response_to_Machetes_Consultation_-_sent_to_gov.uk_31-08-23_CLEAN.pdf

8. Applicable Guidance

- 8.1 Before the surrender and compensation scheme launches, guidance on the process for surrendering weapons and making a claim for compensation will be published.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment will be published on the legislation.gov.uk website after the laying date.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no impact on charities or voluntary bodies.
- 9.3 The legislation does impact small or micro businesses. The impact on business has been difficult to estimate due to lack of data on the size of the market for in-scope knives. The consultation document sought views and information on impact to wholesalers and retailers but very few responses were received to these questions. We believe that in-scope knives and machetes represent a very small proportion of the machetes market and therefore we estimate a very low impact to businesses. Wholesalers and retailers will be able to continue to sell a wide range of machetes and knives designed as tools.
- 9.4 No specific action is proposed to minimise regulatory burdens on small businesses.
- 9.5 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The impact of the proposed measure will be monitored using feedback from the police and Trading Standards, and through statistics relating to the prosecution of the new offences. The Home Office will also keep under review the impact of the measures on business.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 None.

12. European Convention on Human Rights

- 12.1 The Minister for Crime, Policing and Fire, Chris Philp, has made the following statement regarding Human Rights:

“In my view the provisions of The Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) Order 2024 are compatible with the Convention rights.”

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).