

OFFENSIVE WEAPONS BILL: KEELING SCHEDULES

This document shows provisions in other enactments as they would be amended by the Bill, as amended in Grand Committee. It is intended to assist the consideration of these provisions in the Bill and should not be taken as a definitive statement of the law as it would have effect on the enactment of the Bill.

Deletions are shown ~~struck through~~ and additions in *italics*.

Index

Prevention of Crime Act 1953 – Sections 1, 1ZA and 1A

Restriction of Offensive Weapons Act 1959 – Section 1

Criminal Justice Act 1988 (as it applies in England and Wales) – Sections 139, 139AA, 139A, 139AZA, 139B, 141, 141A, 141B and 142

Criminal Justice Act 1988 (Offensive Weapons) Order 1988 (SI 1988/ 2019) (as it applies in England and Wales) – Schedule

SECTION 1 OF THE PREVENTION OF CRIME ACT 1953 (UNAMENDED BY THE BILL)

1 — Prohibition of the carrying of offensive weapons without lawful authority or reasonable excuse

(1) Any person who without lawful authority or reasonable excuse, the proof whereof shall lie on him, has with him in any public place any offensive weapon shall be guilty of an offence, and shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the prescribed sum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding four years or a fine or both.

(2) Where any person is convicted of an offence under subsection (1) of this section the court may make an order for the forfeiture or disposal of any weapon in respect of which the offence was committed.

(2A) Subsection (2B) applies where—

- (a) a person is convicted of an offence under subsection (1) committed after this subsection is commenced, and
- (b) when the offence was committed, the person was aged 16 or over and had at least one relevant conviction (see section 1ZA).

(2B) Where this subsection applies, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—

- (a) relate to the offence, to the previous offence or to the offender, and
- (b) would make it unjust to do so in all the circumstances.

(2C) In this section “appropriate custodial sentence” means—

- (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
- (b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.

(2D) In considering whether it is of the opinion mentioned in subsection (2B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).

(2E) Where—

- (a) an appropriate custodial sentence has been imposed on a person under subsection (2B), and
- (b) a relevant conviction without which subsection (2B) would not have applied has been subsequently set aside on appeal,

notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).

(2F) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.

(2G) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (2C)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.

(4) In this section “public place” includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise; and “offensive weapon” means any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him or by some other person.

**SECTION 1ZA OF THE PREVENTION OF CRIME ACT 1953 AS AMENDED BY
CLAUSE 13(1) OF THE BILL**

1ZA - Offence under section 1: previous relevant convictions

- (1) For the purposes of section 1, “relevant conviction” means—
- (a) a conviction for an offence under—
 - (i) section 1 or 1A of this Act, or
 - (ii) section 139, 139A or 139AA of the Criminal Justice Act 1988, (a “relevant offence”), whenever committed, or
 - (iii) *section 6 of the Offensive Weapons Act 2019*,
 - (b) a conviction in Scotland, Northern Ireland or a member State other than the United Kingdom for a civilian offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of that conviction,
 - (c) a conviction for an offence under section 42 of the Armed Forces Act 2006, whenever committed, in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is a relevant offence,
 - (d) a conviction for an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957, whenever committed, in respect of which the corresponding civil offence (within the meaning of the Act in question) is a relevant offence, and
 - (e) a conviction for a member State service offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of conviction.

- (2) In this section—
“civilian offence” means an offence other than—

- (a) an offence under an enactment mentioned in subsection (1)(c) or (d), or
- (b) a member State service offence;

“conviction” includes—

- (a) in relation to an offence under section 42 of the Armed Forces Act 2006, anything which by virtue of section 376(1) and (2) of that Act is to be treated as a conviction and
- (b) in relation to an offence under section 42 of the Naval Discipline Act 1957 and a member State service offence, a finding of guilt in respect of the person;

“member State service offence” means an offence which was the subject of proceedings under the law of a member State, other than the United Kingdom, governing all or any of the naval, military or air forces of that State.

- (3) For the purposes of subsection (1)(c) and (d), where the offence was committed by aiding, abetting, counselling or procuring, it must be assumed that the act aided, abetted, counselled or procured was done in England and Wales.

**SECTION 1A OF THE PREVENTION OF CRIME ACT 1953 AS AMENDED BY
CLAUSE 29(2)-(3) OF THE BILL**

1A - Offence of threatening with offensive weapon in public

- (1) A person is guilty of an offence if that person—
- (a) has an offensive weapon with him or her in a public place,
 - (b) unlawfully and intentionally threatens another person (“A”) with the weapon, and
 - (c) does so in such a way that ~~there is an immediate risk of serious physical harm to that other person.~~ *a reasonable person (“B”) who was exposed to the same threat as A would think that there was an immediate risk of physical harm to B.*
- ~~(2) For the purposes of this section physical harm is serious if it amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861.~~
- (3) In this section “public place” and “offensive weapon” have the same meaning as in section 1.
- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.
- (5) Where a person aged 16 or over is convicted of an offence under this section, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—
- (a) relate to the offence or to the offender, and
 - (b) would make it unjust to do so in all the circumstances.
- (6) In this section “appropriate custodial sentence” means—
- (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
 - (b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.
- (7) In considering whether it is of the opinion mentioned in subsection (5) in the case of a person aged under 18, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933.
- (8) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (4)(a) to 12 months is to be read as a reference to 6 months.
- (9) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (6)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the

time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.

(10) If on a person's trial for an offence under this section (whether on indictment or not) the person is found not guilty of that offence but it is proved that the person committed an offence under section 1, the person may be convicted of the offence under that section.

SECTION 1 OF THE RESTRICTION OF OFFENSIVE WEAPONS ACT 1959 AS AMENDED BY CLAUSES 22(1) and 23(2)-(4) OF THE BILL

Section 1 - Penalties for offences in connection with dangerous weapons

(1) Any person who manufactures, sells or hires or offers for sale or hire, or exposes or has in his possession for the purpose of sale or hire or lends to gives to any other person—

~~(a) any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a “flick knife” or “flick gun”; or~~

*(a) any knife which has a blade which opens automatically –
(i) from the closed position to the fully open position, or
(ii) from a partially opened position to the fully opened position,
by manual pressure applied to a button, spring or other device in or attached to the knife, and which is sometimes known as a “flick knife” or “flick gun”; or*

(b) any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever, or other device sometimes known as a “zombie knife”,

shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 4 on the standard scale or to both such imprisonment and fine.

(1A) Any person who possesses any knife of a kind described in subsection (1) is guilty of an offence.

(1B) A person guilty of an offence under subsection (1A) is liable –

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, to a fine or to both;*
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 4 on the standard scale or to both.*

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

~~(2) The importation of any such knife as is described in the foregoing subsection any knife of a kind described in subsection (1) is hereby prohibited.~~

(2D) It is a defence for a person charged in respect of any conduct of that person relating to a knife of a kind described in subsection (1) –

- (a) with an offence under subsection (1), or*
- (b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,*

to show that the conduct was only for the purposes of making the knife available to a museum or gallery to which this subsection applies.

(2E) It is a defence for a person charged with an offence under subsection (1A) to show that they possessed the knife only in their capacity as the operator of, or as a person acting on behalf of, a museum or gallery.

(2F) If the operator of, or a person acting on behalf of, a museum or gallery to which this subsection applies is charged with hiring or lending a knife of a kind described in subsection (1), it is a defence for them to show that they had reasonable grounds for believing that the person to whom they lent or hired it would use it only for cultural, artistic or educational purposes.

(2G) Subsection (2D) or (2F) applies to a museum or gallery only if it does not distribute profits.

(2H) In this section “museum or gallery” includes any institution which has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest and gives the public access to it.

(2I) A person is to be taken to have shown a matter mentioned in subsection (2D), (2E), or (2F) 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.*

SECTION 139 OF THE CRIMINAL JUSTICE ACT 1988 (UNAMENDED BY THE BILL)

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

(1) Subject to subsections (4) and (5) below, any person who has an article to which this section applies with him in a public place shall be guilty of an offence.

(2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed except a folding pocketknife.

(3) This section applies to a folding pocketknife if the cutting edge of its blade exceeds 3 inches.

(4) It shall be a defence for a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.

(5) Without prejudice to the generality of subsection (4) above, it shall be a defence for a person charged with an offence under this section to prove that he had the article with him—

- (a) for use at work;
- (b) for religious reasons; or
- (c) as part of any national costume.

(6) A person guilty of an offence under subsection (1) above shall be liable -

- (a) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding four years, or a fine, or both.

(6A) Subsection (6B) applies where—

- (a) a person is convicted of an offence under subsection (1) by a court in England and Wales,
- (b) the offence was committed after this subsection is commenced, and
- (c) when the offence was committed, the person was aged 16 or over and had at least one relevant conviction (see section 139AZA).

(6B) Where this subsection applies, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—

- (a) relate to the offence, to the previous offence or to the offender, and
- (b) would make it unjust to do so in all the circumstances.

(6C) In this section “appropriate custodial sentence” means —

- (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
- (b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.

(6D) In considering whether it is of the opinion mentioned in subsection (6B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).

(6E) Where—

(a) an appropriate custodial sentence has been imposed on a person under subsection (6B), and

(b) a relevant conviction without which subsection (6B) would not have applied has been subsequently set aside on appeal,

notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).

(6F) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.

(6G) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (6C)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.

(7) In this section “public place” includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

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

SECTION 139AA OF THE CRIMINAL JUSTICE ACT 1988 AS AMENDED BY CLAUSES 29(5)-(6) AND 30 OF THE BILL

139AA - Offence of threatening with article with blade or point or offensive weapon

(1) A person is guilty of an offence if that person—
(a) has an article to which this section applies with him or her in a public place or on school premises,
(b) unlawfully and intentionally threatens another person (“A”) with the article, and
(c) does so in such a way that ~~there is an immediate risk of serious physical harm to that other person.~~ *a reasonable person (“B”) who was exposed to the same threat as A would think that there was an immediate risk of physical harm to B.*

*(1A) A person is guilty of an offence if that person –
(a) has an article to which this section applies with them on further education premises,
(b) unlawfully and intentionally threatened another person (“A”) with the article, and
(c) does so in such a way that a reasonable person (“B”) who was exposed to the same threat as A would think that there was an immediate risk of physical harm to B.*

(2) In relation to a public place this section applies to an article to which section 139 applies.

(3) In relation to school premises this section applies to each of these—
(a) an article to which section 139 applies;
(b) an offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953.

*(3A) In relation to further education premises this section applies to each of these –
(a) an article to which section 139 applies;
(b) an offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953.*

~~(4) For the purposes of this section physical harm is serious if it amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861.~~

(5) In this section—
*“further education premises” means land used solely for the purposes of –
(a) an institution within the further education sector (within the meaning of section 91 of the Further and Higher Education Act 1992), or
(b) a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010),
excluding any land occupied solely as a dwelling by a person employed at the institution or the 16 to 19 Academy;*

*“public place” has the same meaning as in section 139;
“school premises” has the same meaning as in section 139A
“school premises” means land used for the purposes of a school, excluding any land occupied solely as a dwelling by a person employed at the school;
and “school” has the meaning given by section 4 of the Education Act 1996.*

- (6) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.
- (7) Where a person aged 16 or over is convicted of an offence under this section, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—
- (a) relate to the offence or to the offender, and
 - (b) would make it unjust to do so in all the circumstances.
- (8) In this section “appropriate custodial sentence” means—
- (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
 - (b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.
- (9) In considering whether it is of the opinion mentioned in subsection (7) in the case of a person aged under 18, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933.
- (10) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (6)(a) to 12 months is to be read as a reference to 6 months.
- (11) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (8)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.
- (12) If on a person's trial for an offence under this section (whether on indictment or not) the person is found not guilty of that offence but it is proved that the person committed an offence under section 139 or 139A, the person may be convicted of the offence under that section.

**SECTION 139A OF THE CRIMINAL JUSTICE ACT 1988 AS AMENDED BY
CLAUSE 24(2)-(7) OF THE BILL**

139A — Offence of having article with blade or point (or offensive weapon) on school premises *education premises*

(1) Any person who has an article to which section 139 of this Act applies with him on school premises *or further education premises* shall be guilty of an offence.

(2) Any person who has an offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953 with him on school premises *or further education premises* shall be guilty of an offence.

(3) It shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had good reason or lawful authority for having the article or weapon with him on the premises in question.

(4) Without prejudice to the generality of subsection (3) above, it shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had the article or weapon in question with him—

- (a) for use at work,
- (b) for educational purposes,
- (c) for religious reasons, or
- (d) as part of any national costume.

~~(5) A person guilty of an offence—~~

~~(a) under subsection (1) above shall be liable—~~

- ~~(i) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;~~
- ~~(ii) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both;~~

~~(b) under subsection (2) above shall be liable—~~

- ~~(i) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;~~
- ~~(ii) on conviction on indictment, to imprisonment for a term not exceeding four years, or a fine, or both.~~

(5) A person guilty of an offence under subsection (1) or (2) is liable –

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or both;*
- (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;*
- (c) on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.*

(5ZA) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 (maximum sentence that may be imposed on summary conviction of offence triable either way) the reference in subsection (5)(a) to 12 months is to be read as a reference to 6 months.

(5A) Subsection (5B) applies where—

- (a) a person is convicted of an offence under subsection (1) or (2) by a court in England and Wales,
- (b) the offence was committed after this subsection is commenced, and
- (c) when the offence was committed, the person was aged 16 or over and had at least one relevant conviction (see section 139AZA).

(5B) Where this subsection applies, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—

- (a) relate to the offence, to the previous offence or to the offender, and
- (b) would make it unjust to do so in all the circumstances.

(5C) In this section “appropriate custodial sentence” means—

- (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
- (b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.

(5D) In considering whether it is of the opinion mentioned in subsection (5B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).

(5E) Where—

- (a) an appropriate custodial sentence has been imposed on a person under subsection (5B), and
- (b) a relevant conviction without which subsection (5B) would not have applied has been subsequently set aside on appeal,

notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).

(5F) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.

(5G) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (5C)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.

~~(6) In this section and section 139B, “school premises” means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school; and “school” has the meaning given by section 4 of the Education Act 1996.~~

(6) In this section and section 139B “school premises” means land used for the purposes of a school, excluding any land occupied solely as a dwelling by a person employed at the school; and “school” has the meaning given by –

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

(6A) In this section and section 139B “further education premises” means –

- (a) in relation to England and Wales, land used solely for the purposes of -*
 - (i) an institution within the further education sector (within the meaning of section 91 of the Further and Higher Education Act 1992), or*
 - (ii) a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010),*

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

- (b) in relation to Northern Ireland, 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.*

(7) In the application of this section to Northern Ireland—

- (a) the reference in subsection (2) above to section 1 of the Prevention of Crime Act 1953 is to be construed as a reference to Article 22 of the Public Order (Northern Ireland) Order 1987.*

**SECTION 139AZA OF THE CRIMINAL JUSTICE ACT 1988 AS AMENDED BY
CLAUSE 13(4) OF THE BILL**

139AZA - Offences under sections 139 and 139A: previous relevant convictions

- (1) For the purposes of sections 139 and 139A, “*relevant conviction*” means—
- (a) a conviction for an offence under—
 - (i) section 1 or 1A of the Prevention of Crime Act 1953, or
 - (ii) section 139, 139A or 139AA of this Act, or
 - (iii) *section 6 of the Offensive Weapons Act 2019*,
 - (a “relevant offence”), whenever committed,
 - (b) a conviction in Scotland, Northern Ireland or a member State other than the United Kingdom for a civilian offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of that conviction,
 - (c) a conviction for an offence under section 42 of the Armed Forces Act 2006, whenever committed, in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is a relevant offence,
 - (d) a conviction for an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957, whenever committed, in respect of which the corresponding civil offence (within the meaning of the Act in question) is a relevant offence, and
 - (e) a conviction for a member State service offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of conviction.

(2) In this section—
“civilian offence” means an offence other than—

- (a) an offence under an enactment mentioned in subsection (1)(c) or (d), or
- (b) a member State service offence;

“conviction” includes—

- (a) in relation to an offence under section 42 of the Armed Forces Act 2006, anything which by virtue of section 376(1) and (2) of that Act is to be treated as a conviction, and
- (b) in relation to an offence under section 42 of the Naval Discipline Act 1957 and a member State service offence, a finding of guilt in respect of the person;

“member State service offence” means an offence which was the subject of proceedings under the law of a member State, other than the United Kingdom, governing all or any of the naval, military or air forces of that State.

(3) For the purposes of subsection (1)(c) and (d), where the offence was committed by aiding, abetting, counselling or procuring, it must be assumed that the act aided, abetted, counselled or procured was done in England and Wales.

**SECTION 139B OF THE CRIMINAL JUSTICE ACT 1988 AS AMENDED BY
CLAUSE 24(8) OF THE BILL**

**139B — Power of entry to search for articles with a blade or point and
offensive weapons.**

(1) A constable may enter school premises *or further education premises* and search those premises and any person on those premises for—

(a) any article to which section 139 of this Act applies, or

(b) any offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953,

if he has reasonable grounds for suspecting that an offence under section 139A or 139AA of this Act is being, or has been, committed.

(2) If in the course of a search under this section a constable discovers an article or weapon which he has reasonable grounds for suspecting to be an article or weapon of a kind described in subsection (1) above, he may seize and retain it.

(3) The constable may use reasonable force, if necessary, in the exercise of the power of entry conferred by this section.

(4) In the application of this section to Northern Ireland—

(a) the reference in subsection (1)(b) above to section 1 of the Prevention of Crime Act 1953 is to be construed as a reference to Article 22 of the Public Order (Northern Ireland) Order 1987, and

(b) the reference in subsection (1) to section 139AA is omitted.

SECTION 141 OF THE CRIMINAL JUSTICE ACT 1988 AS AMENDED BY CLAUSE 25(2)-(15) OF THE BILL

141 — Offensive weapons

(1) Any person who manufactures, sells or hires or offers for sale or hire, exposes or has in his possession for the purpose of sale or hire, or lends or gives to any other person, a weapon to which this section applies shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or both.

(1A) Any person who possesses a weapon to which this section applies in private is guilty of an offence and liable –

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, to a fine or to both,

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both,

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both,

(d) on conviction on indictment in Northern Ireland, to imprisonment for a term not exceeding 4 years, to a fine or to both.

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

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

(a) a public place,

(b) school premises,

(c) further education premises, or

(d) a prison.

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

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

(a) a public place,

(b) school premises, or

(c) further education premises.

(1F) In subsections (1C) to (1E) –

“domestic premises” means any premises occupied as a private dwelling (including any stair, passage, garden, yard, garage, outhouse or other

appurtenance of such premises which is not used in common by the occupants of more than one such dwelling);
“further education premises”, in relation to England and Wales, means land used solely for the purposes of –

- (a) an institution within the further education sector (within the meaning of section 91 of the Further and Higher Education Act 1992), or*
- (b) a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010), excluding any land occupied solely as a dwelling by a person employed at the institution of the 16 to 19 Academy;*

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

“prison” includes –

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

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

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

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

(2) The Secretary of State may by order made by statutory instrument direct that this section shall apply to any description of weapon specified in the order except—

- (a) any weapon subject to the Firearms Act 1968; and
- (b) crossbows, etc

(4) The importation of a weapon to which this section applies is hereby prohibited.

(5) It shall be a defence for any person charged in respect of any conduct of his relating to a weapon to which this section applies—

- (a) with an offence under subsection (1) or (1A) above; or
- (b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation),

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

(6) In this section the reference to the Crown includes the Crown in right of Her Majesty's Government in Northern Ireland; and “visiting force” means anybody, contingent or detachment of the forces of a country—

- (a) mentioned in subsection (1)(a) of section 1 of the Visiting Forces Act 1952; or
- (b) designated for the purposes of any provision of that Act by Order in Council under subsection (2) of that section,

which is present in the United Kingdom (including United Kingdom territorial waters) or in any place to which subsection (7) below applies on the invitation of Her Majesty's Government in the United Kingdom

(7) This subsection applies to any place on, under or above an installation in a designated area within the meaning of section 1(7) of the Continental Shelf Act 1964 or any waters within 500 metres of such an installation.

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

(8) It shall be a defence for any person charged in respect of any conduct of his relating to a weapon to which this section applies—

(a) with an offence under subsection (1) above; or

(b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

to show that the conduct in question was only for the purposes of making the weapon available to a museum or gallery to which this subsection applies.

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

~~(9) If a person acting on behalf of~~ *If the operator of, or a person acting on behalf of, a museum or gallery to which subsection (8) above applies is charged with hiring or lending a weapon to which this section applies, it shall be a defence for him to show that he had reasonable grounds for believing that the person to whom he lent or hired it would use it only for cultural, artistic or educational purposes.*

(10) Subsection (8) above applies to a museum or gallery only if it does not distribute profits.

(11) In this section “museum or gallery” includes any institution which has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest and gives the public access to it.

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

(11A) It shall be a defence for a person charged in respect of conduct of his relating to a weapon to which this section applies—

(a) with an offence under subsection (1) or (1A) above, or

(b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

to show that his conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified in subsection (11B).

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

(11B) Those purposes are—
(a) the purposes of theatrical performances and of rehearsals for such performances;
(b) the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 — see section 5B of that Act);
(c) the production of television programmes (within the meaning of the Communications Act 2003 — see section 405(1) of that Act).

(11C) For the purposes of this section a person shall be taken to have shown a matter specified in subsection (5), ~~(8), (9) or (11A)~~ (7A), (8), (8A), (9), (11ZA), (11A) or (11AA) if—

- (a) sufficient evidence of that matter is adduced to raise an issue with respect to it; and
- (b) the contrary is not proved beyond a reasonable doubt.

(11D) The Secretary of State may by order made by statutory instrument—
(a) provide for exceptions and exemptions from the offence under subsection (1) or (1A) above or from the prohibition in subsection (4) above; and
(b) provide for it to be a defence in proceedings for such an offence, or for an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979, to show the matters specified or described in the order.

(11E) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.

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

(13) In the application of this section to Northern Ireland in subsection (2) above the reference to the Secretary of State shall be construed as reference to the Department of Justice in Northern Ireland and the reference to the Firearms Act 1968 shall be construed as a reference to the Firearms (Northern Ireland) Order 2004.

(14) In the application of this section to Northern Ireland, the power under subsection (11D) above to provide by order—

- (a) for exceptions and exemptions from the offence under subsection (1) or (1A) above; and
- (b) for it to be a defence in proceedings for such an offence to show the matters specified or described in the order,

is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State).

(15) Any power of the Department of Justice in Northern Ireland to make an order under this section shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument).

(16) No order shall be made by the Department of Justice under this section unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(17) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (16) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

**SECTION 141A OF THE CRIMINAL JUSTICE ACT 1988 AS AMENDED BY
CLAUSES 15(2) AND 16(2)**

141A — Sale of knives and certain articles with blade or point to persons under sixteen.

(1) Any person who sells to a person under the age of eighteen years an article to which this section applies shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

(2) Subject to subsection (3) below, this section applies to—

- (a) any knife, knife blade or razor blade,
- (b) any axe, and
- (c) any other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to the person.

(3) This section does not apply to any article described in—

- (a) section 1 of the Restriction of Offensive Weapons Act 1959, *or*
- ~~(b) an order made under section 141(2) of this Act, or~~
- (c) an order made by the Secretary of State under this section.

(4) ~~It~~ *Subject to section 141B, it* shall be a defence for a person charged with an offence under subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**NEW SECTION 141B OF THE CRIMINAL JUSTICE ACT 1988 AS INSERTED BY
CLAUSE 15(3)**

**141B – Limitations on defence to offence under section 141A: England and
Wales**

(1) *This section applies if –*

- (a) *a person (“the seller”) is charged with an offence under section 141A (sale of bladed articles to persons under 18), and*
- (b) *the seller was not in the presence of the person (“the buyer”) to whom the article to which the charge relates was sold at the time of the sale.*

(2) *The purposes of subsection (1)(b) the seller was not in the presence of the buyer at the time of the sale if –*

- (a) *where the seller is an individual, the seller or a person acting on the seller’s behalf was not in the presence of the buyer at that time;*
- (b) *where the seller is not an individual, a person acting on the seller’s behalf was not in the presence of the buyer at that time.*

(3) *The seller is not to be regarded as having proved that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence unless, as a minimum, they prove the following conditions are met.*

(4) *Condition A is that, at the time of the offence is alleged to have been committed –*

- (a) *the seller operated a system for checking that persons who bought articles to which section 141A applied by the same or a similar method of purchase to that used by the buyer were not under the age of 18, and*
- (b) *the system was likely to prevent persons under the age of 18 from buying such articles by that method.*

(5) *Condition B is that when the package containing the article was dispatched by the seller, 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.*

(6) *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.*

(7) *Condition D is that the seller did not deliver the package, or arrange for its delivery, to a locker.*

(8) *Where the article to which section 141A applied was dispatched by the seller to a place from which it was to be collected by the buyer or a person acting on behalf of the buyer, references in subsections (5) and (6) to the final delivery of the article are to be read as its supply to the buyer or a person acting on behalf of the buyer from that place.*

(9) In subsection (7) “locker” means a lockable container to which the package was delivered with a view to its collection by the buyer, or a person acting on behalf of the buyer, in accordance with arrangements made between the seller and the buyer.

SECTION 142 OF THE CRIMINAL JUSTICE ACT 1988 (UNAMENDED BY THE BILL)

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

(1) If on an application made by a constable a justice of the peace (including, in Scotland, the sheriff) is satisfied that there are reasonable grounds for believing—

(a) that there are on premises specified in the application—

(i) knives such as are mentioned in section 1(1) of the Restriction of Offensive Weapons Act 1959; or

(ii) weapons to which section 141 above applies; and

(b) that an offence under section 1 of the Restriction of Offensive Weapons Act 1959 or section 141 above has been or is being committed in relation to them; and

(c) that any of the conditions specified in subsection (3) below applies, he may issue a warrant authorising a constable to enter and search the premises.

(2) A constable may seize and retain anything for which a search has been authorised under subsection (1) above.

(3) The conditions mentioned in subsection (1)(c) above are—

(a) that it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the knives or weapons to which the application relates;

(c) that entry to the premises will not be granted unless a warrant is produced;

(d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

(4) Subsection (1)(a)(i) shall be omitted in the application of this section to Northern Ireland.

**SCHEDULE TO THE CRIMINAL JUSTICE ACT 1988 (OFFENSIVE WEAPONS)
ORDER 1988 (SI 1988/ 2019) AS AMENDED BY CLAUSE 26(2)-(7) OF THE BILL**

1

Section 141 of the Criminal Justice Act 1988 (offensive weapons) shall apply to the following descriptions of weapons, other than weapons of those descriptions which are antiques for the purposes of this Schedule:

- (a) a knuckleduster, that is, a band of metal or other hard material worn on one or more fingers, and designed to cause injury, and any weapon incorporating a knuckleduster;
- (b) a swordstick, that is, a hollow walking-stick or cane containing a blade which may be used as a sword;
- (c) the weapon sometimes known as a "handclaw", being a band of metal or other hard material from which a number of sharp spikes protrude, and worn around the hand;
- (d) the weapon sometimes known as a "belt buckle knife", being a buckle which incorporates or conceals a knife;
- (e) the weapon sometimes known as a "push dagger", being a knife the handle of which fits within a clenched fist and the blade of which protrudes from between two fingers;
- (f) the weapon sometimes known as a "hollow kubotan", being a cylindrical container containing a number of sharp spikes;
- (g) the weapon sometimes known as a "footclaw", being a bar of metal or other hard material from which a number of sharp spikes protrude, and worn strapped to the foot;
- (h) the weapon sometimes known as a "shuriken", "shaken" or "death star", being a hard non-flexible plate having three or more sharp radiating points and designed to be thrown;
- (i) the weapon sometimes known as a "balisong" or "butterfly knife", being a blade enclosed by its handle, which is designed to split down the middle, without the operation of a spring or other mechanical means, to reveal the blade;
- (j) the weapon sometimes known as a "telescopic truncheon", being a truncheon which extends automatically by hand pressure applied to a button, spring or other device in or attached to its handle;
- (k) the weapon sometimes known as a "blowpipe" or "blow gun", being a hollow tube out of which had pellets or darts are shot by the use of breath;
- (l) the weapon sometimes known as a "kusari gama", being a length of rope, cord, wire or chain fastened at one end to a sickle;
- (m) the weapon sometimes known as a "kyoketsu shoge", being length of rope, cord, wire or chain fastened at one end to a hooked knife;
- (n) the weapon sometimes known as a "manrikigusari" or "kusari", being a length of rope, cord, wire or chain fastened at each end to a hard weight or hand grip;

- (o) a disguised knife, that is any knife which has a concealed blade or concealed sharp point and is designed to appear to be an everyday object of a kind commonly carried on the person or in a handbag, briefcase, or other hand luggage (such as a comb, brush, writing instrument, cigarette lighter, key, lipstick or telephone)];
- (p) a stealth knife, that is a knife or spike, which has a blade, or sharp point, made from a material that is not readily detectable by apparatus used for detecting metal and which is not designed for domestic use or for use in the processing, preparation or consumption of food or as a toy;
- (q) a straight, side-handled or friction-lock truncheon (sometimes known as a baton));
- (r) a sword with a curved blade of 50 centimetres or over in length; and for the purposes of this sub-paragraph, the length of the blade shall be the straight line distance from the top of the handle to the tip of the blade;
- (s) *the weapon sometimes known as a "zombie knife", "zombie killer knife" or "zombie slayer knife", being a blade with—*
 - (i) *a cutting edge;*
 - (ii) *a serrated edge; and*
 - (iii) *images or words (whether on the blade or handle) that suggest that it is to be used for the purpose of violence.*
- (t) *the weapon sometimes known as a "cyclone knife" or "spiral knife" being a weapon with—*
 - (i) *a handle,*
 - (ii) *a blade with two or more cutting edges, each of which forms a helix, and*
 - (iii) *a sharp point at the end of the blade.*

2

For the purposes of this Schedule, a weapon is an antique if it was manufactured more than 100 years before the date of any offence alleged to have been committed in respect of that weapon under subsection (1) or (1A) of the said section 141 or section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation).

3

It shall be a defence for a person charged--

- (a) with an offence under section 141(1) or (1A) of the Criminal Justice Act 1988; or
- (b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

in respect of any conduct of his relating to a weapon to which section 141 of the Criminal Justice Act 1988 applies by virtue of paragraph 1(r) to show that the weapon in question was made before 1954 or was made at any other time according to traditional methods of making swords by hand.

4

(1) It shall be a defence for a person charged--

(a) with an offence under section 141(1) or (1A) of the Criminal Justice Act 1988;
or

(b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

in respect of any conduct of his relating to a weapon to which section 141 of the Criminal Justice Act 1988 applies by virtue of paragraph 1(r) to show that his conduct was for the purpose only of making the weapon available for the purposes of the organisation and holding of a permitted activity for which public liability insurance is held in relation to liabilities to third parties arising from or in connection with the organisation and holding of such an activity.

(2) It is a defence for a person charged with an offence under section 141(1A) of the Criminal Justice Act 1988 in respect of any conduct of that person relating to a weapon to which section 141 of that Act applies by virtue of paragraph 1(r) to show that the person's conduct was for the purpose only of participating in a permitted activity of a kind mentioned in sub-paragraph (1).

5

For the purposes of paragraph 4--

"historical re-enactment" means any presentation or other event held for the purpose of re-enacting an event from the past or of illustrating conduct from a particular time or period in the past;

"insurance" means a contract of insurance or other arrangement made for the purpose of indemnifying a person or persons named in the contract or under the arrangement;

"permitted activity" means an historical re-enactment or a sporting activity;

"sporting activity" means the practising of a sport which requires the use of a weapon described in paragraph 1(r);

"third parties" includes participants in, and spectators of, a permitted activity and members of the public.

5A

(1) It shall be a defence for a person charged--

(a) with an offence under section 141(1) or (1A) of the Criminal Justice Act 1988; or

(b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

in respect of any conduct of his relating to a weapon to which section 141 of the Criminal Justice Act 1988 applies by virtue of paragraph 1(r) to show that his conduct was for the purpose only of making the weapon available for the purposes of use *for religious reasons in religious ceremonies*.

(2) It is a defence for a person charged with an offence under section 141(1A) of the Criminal Justice Act 1988 in respect of a weapon to which section 141 of the Criminal Justice Act 1988 applies by virtue of paragraph 1(r) to show that the person possessed the weapon for religious purposes only.

6

For the purposes of paragraphs 3, 4 and 5A, a person shall be taken to have shown a matter specified in those paragraphs if--

- (a) sufficient evidence of that matter is adduced to raise an issue with respect to it;
and
- (b) the contrary is not proved beyond a reasonable doubt.