

Appendix D: Section 1 Knives Act 1997





Knives Act 1997

CHAPTER 21

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Knives Act 1997

1997 CHAPTER 21

An Act to create new criminal offences in relation to the possession or marketing of, and publications relating to, knives; to confer powers on the police to stop and search people or vehicles for knives and other offensive weapons and to seize items found; and for connected purposes. [19th March 1997]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The offences

1.—(1) A person is guilty of an offence if he markets a knife in a way which—

- (a) indicates, or suggests, that it is suitable for combat; or
- (b) is otherwise likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.

Unlawful marketing of knives.

(2) "Suitable for combat" and "violent behaviour" are defined in section 10.

(3) For the purposes of this Act, an indication or suggestion that a knife is suitable for combat may, in particular, be given or made by a name or description—

- (a) applied to the knife;
- (b) on the knife or on any packaging in which it is contained; or
- (c) included in any advertisement which, expressly or by implication, relates to the knife.

(4) For the purposes of this Act, a person markets a knife if—

- (a) he sells or hires it;
- (b) he offers, or exposes, it for sale or hire; or
- (c) he has it in his possession for the purpose of sale or hire.

(5) A person who is guilty of an offence under this section is liable—

- (a) on summary conviction to imprisonment for a term not exceeding six 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 two years or to a fine, or to both.

Publications.

2.—(1) A person is guilty of an offence if he publishes any written, pictorial or other material in connection with the marketing of any knife and that material—

- (a) indicates, or suggests, that the knife is suitable for combat; or
- (b) is otherwise likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.

(2) A person who is guilty of an offence under this section is liable—

- (a) on summary conviction to imprisonment for a term not exceeding six 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 two years or to a fine, or to both.

The defences

Exempt trades.

3.—(1) It is a defence for a person charged with an offence under section 1 to prove that—

- (a) the knife was marketed—
 - (i) for use by the armed forces of any country;
 - (ii) as an antique or curio; or
 - (iii) as falling within such other category (if any) as may be prescribed;
- (b) it was reasonable for the knife to be marketed in that way; and
- (c) there were no reasonable grounds for suspecting that a person into whose possession the knife might come in consequence of the way in which it was marketed would use it for an unlawful purpose.

(2) It is a defence for a person charged with an offence under section 2 to prove that—

- (a) the material was published in connection with marketing a knife—
 - (i) for use by the armed forces of any country;
 - (ii) as an antique or curio; or
 - (iii) as falling within such other category (if any) as may be prescribed;
- (b) it was reasonable for the knife to be marketed in that way; and
- (c) there were no reasonable grounds for suspecting that a person into whose possession the knife might come in consequence of the publishing of the material would use it for an unlawful purpose.

(3) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

- 4.—(1) It is a defence for a person charged with an offence under section 1 to prove that he did not know or suspect, and had no reasonable grounds for suspecting, that the way in which the knife was marketed—
- Other defences.
- (a) amounted to an indication or suggestion that the knife was suitable for combat; or
 - (b) was likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.
- (2) It is a defence for a person charged with an offence under section 2 to prove that he did not know or suspect, and had no reasonable grounds for suspecting, that the material—
- (a) amounted to an indication or suggestion that the knife was suitable for combat; or
 - (b) was likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.
- (3) It is a defence for a person charged with an offence under section 1 or 2 to prove that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Supplementary powers

- 5.—(1) If, on an application made by a constable, a justice of the peace or sheriff is satisfied that there are reasonable grounds for suspecting—
- Supplementary powers of entry, seizure and retention.
- (a) that a person (“the suspect”) has committed an offence under section 1 in relation to knives of a particular description, and
 - (b) that knives of that description and in the suspect’s possession or under his control are to be found on particular premises,
- the justice or sheriff may issue a warrant authorising a constable to enter those premises, search for the knives and seize and remove any that he finds.
- (2) If, on an application made by a constable, a justice of the peace or sheriff is satisfied that there are reasonable grounds for suspecting—
- (a) that a person (“the suspect”) has committed an offence under section 2 in relation to particular material, and
 - (b) that publications consisting of or containing that material and in the suspect’s possession or under his control are to be found on particular premises,
- the justice or sheriff may issue a warrant authorising a constable to enter those premises, search for the publications and seize and remove any that he finds.
- (3) A constable, in the exercise of his powers under a warrant issued under this section, may if necessary use reasonable force.
- (4) Any knives or publications which have been seized and removed by a constable under a warrant issued under this section may be retained until the conclusion of proceedings against the suspect.
- (5) For the purposes of this section, proceedings in relation to a suspect are concluded if—
- (a) he is found guilty and sentenced or otherwise dealt with for the offence;
 - (b) he is acquitted;

- (c) proceedings for the offence are discontinued; or
- (d) it is decided not to prosecute him.

(6) In this section “premises” includes any place and, in particular, any vehicle, vessel, aircraft or hovercraft and any tent or movable structure.

Forfeiture of knives and publications.

6.—(1) If a person is convicted of an offence under section 1 in relation to a knife of a particular description, the court may make an order for forfeiture in respect of any knives of that description—

- (a) seized under a warrant issued under section 5; or
- (b) in the offender’s possession or under his control at the relevant time.

(2) If a person is convicted of an offence under section 2 in relation to particular material, the court may make an order for forfeiture in respect of any publications consisting of or containing that material which—

- (a) have been seized under a warrant issued under section 5; or
- (b) were in the offender’s possession or under his control at the relevant time.

(3) The court may make an order under subsection (1) or (2)—

- (a) whether or not it also deals with the offender in respect of the offence in any other way; and
- (b) without regard to any restrictions on forfeiture in any enactment.

(4) In considering whether to make an order, the court must have regard—

- (a) to the value of the property; and
- (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).

(5) In this section “relevant time”—

- (a) in relation to a person convicted in England and Wales or Northern Ireland of an offence under section 1 or 2, means the time of his arrest for the offence or of the issue of a summons in respect of it;
- (b) in relation to a person so convicted in Scotland, means the time of his arrest for the offence or of his being cited as an accused in respect of it.

Effect of a forfeiture order.

7.—(1) An order under section 6 (a “forfeiture order”) operates to deprive the offender of his rights, if any, in the property to which it relates.

(2) The property to which a forfeiture order relates must be taken into the possession of the police (if it is not already in their possession).

(3) The court may, on an application made by a person who—

- (a) claims property to which a forfeiture order applies, but
- (b) is not the offender from whom it was forfeited,

make an order (a “recovery order”) for delivery of the property to the applicant if it appears to the court that he owns it.

(4) An application to a sheriff must be made in such manner as may be prescribed by act of adjournal.

(5) No application may be made after the end of the period of 6 months beginning with the date on which the forfeiture order was made.

(6) No application may succeed unless the claimant satisfies the court—

- (a) that he had not consented to the offender having possession of the property; or
- (b) that he did not know, and had no reason to suspect, that the offence was likely to be committed.

(7) If a person has a right to recover property which is in the possession of another in pursuance of a recovery order, that right—

- (a) is not affected by the making of the recovery order at any time before the end of the period of 6 months beginning with the date on which the order is made; but
- (b) is lost at the end of that period.

(8) The Secretary of State may make regulations, in relation to property forfeited under this section, for disposing of the property and dealing with the proceeds in cases where—

- (a) no application has been made before the end of the period of 6 months beginning with the date on which the forfeiture order was made; or
- (b) no such application has succeeded.

(9) The regulations may also provide for investing money and auditing accounts.

(10) In this section, “application” means an application under subsection (3).

Stopping and searching

8.—(1) Section 60 of the Criminal Justice and Public Order Act 1994 (powers to stop and search in anticipation of violence) is amended as follows.

Powers to stop and search for knives or offensive weapons.
1994 c. 33.

(2) For subsection (1) substitute—

“(1) If a police officer of or above the rank of inspector reasonably believes—

- (a) that incidents involving serious violence may take place in any locality in his police area, and that it is expedient to give an authorisation under this section to prevent their occurrence, or
- (b) that persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason,

he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding 24 hours.”

(3) Subsection (2) (exercise by chief inspector or inspector of power to give authorisation) is repealed.

(4) In subsection (3) (continuation of authorisation)—

- (a) for “the officer who gave the authorisation or to a” substitute “an officer of or above the rank of”;
- (b) for “incident” substitute “activity”;
- (c) for “six” substitute “24”.

(5) After subsection (3) insert—

“(3A) If an inspector gives an authorisation under subsection (1) he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.”

(6) In subsection (9) (matters to be specified in authorisations) after “specify” insert “the grounds on which it is given and”.

(7) In subsection (10), the words from “and similarly” to the end of the subsection are repealed.

(8) After subsection (10) insert—

“(10A) A person who is searched by a constable under this section shall be entitled to obtain a written statement that he was searched under the powers conferred by this section if he applies for such a statement not later than the end of the period of twelve months from the day on which he was searched.”

(9) In subsection (11), in the definition of “offensive weapon”, after “Act 1984” insert “or, in relation to Scotland, section 47(4) of the Criminal Law (Consolidation) (Scotland) Act 1995”.

1995 c. 39.

(10) After subsection (11) insert—

“(11A) For the purposes of this section, a person carries a dangerous instrument or an offensive weapon if he has it in his possession.”

(11) Section 60 of the Act of 1994 is to extend to Scotland; and accordingly in section 172(8) of that Act (list of provisions that extend to Scotland), for “61 to 67” substitute “60 to 67”.

Miscellaneous

Offences by bodies corporate.

9.—(1) If an offence under this Act committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,

he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In subsection (1) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) If an offence under this Act committed by a partnership in Scotland is proved—

- (a) to have been committed with the consent or connivance of a partner, or
 - (b) to be attributable to any neglect on his part,
- he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

10. In this Act—

Interpretation.

“the court” means—

(a) in relation to England and Wales or Northern Ireland, the Crown Court or a magistrate’s court;

(b) in relation to Scotland, the sheriff;

“knife” means an instrument which has a blade or is sharply pointed;

“marketing” and related expressions are to be read with section 1(4);

“publication” includes a publication in electronic form and, in the case of a publication which is, or may be, produced from electronic data, any medium on which the data are stored;

“suitable for combat” means suitable for use as a weapon for inflicting injury on a person or causing a person to fear injury;

“violent behaviour” means an unlawful act inflicting injury on a person or causing a person to fear injury.

11.—(1) This Act may be cited as the Knives Act 1997.

Short title,
commencement,
extent etc.

(2) This section comes into force on the passing of this Act.

(3) The other provisions of this Act come into force on such date as may be appointed by order made by the Secretary of State; but different dates may be appointed for different provisions and for different purposes.

(4) Any such order may include such transitional provisions or savings as the Secretary of State considers appropriate.

(5) The power—

(a) to make regulations under section 3 or 7, or

(b) to make an order under this section,

is exercisable by statutory instrument.

(6) A statutory instrument made under section 3 or 7 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Except for section 8, this Act extends to Northern Ireland.

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ISBN 0-10-542197-9



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