

These notes relate to the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) which received Royal Assent on 19 April 2007

CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 3 – Weapons

Sale etc. of weapons

Section 60 – Sale etc. of weapons

153. **Section 60** amends section 141 of the Criminal Justice Act 1988 in two ways. Section 60(1)(a) alters the statutory defences to an offence under section 141 of the 1988 Act by requiring an accused to ‘show’ that they have a defence, rather than prove it on a balance of probabilities.
154. **Section 60(1)(b)** inserts subsections (11A) to (11J) into section 141 of the 1988 Act. Subsections (11A) to (11E) provide for further statutory defences to an offence under section 141(1) and ensure that the new defences interface effectively with the import regime. Subsection (11F) supplements the changes made by section 60(1)(a) to make clear that the burden of proof in relation to a defence to an offence under section 141 of the 1988 Act will be placed on the Crown.
155. Subsection (11G) provides that Scottish Ministers may make an order which modifies the application of section 141 of the 1988 Act in respect of specified weapons (for instance to provide for exceptions, exemptions and defences to an offence under that section). In terms of subsection (11J), all such orders are subject to affirmative resolution procedure in the Scottish Parliament.