



# Custodial Sentences and Weapons (Scotland) Act 2007

2007 asp 17

## PART 3

### WEAPONS

#### *Possession of weapons in prisons etc.*

#### **63 Possession of weapons in prisons etc.**

After section 49B of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39), insert—

#### **“49C Offence of having offensive weapon etc. in prison**

- (1) Any person who has with him in a prison—
  - (a) an offensive weapon, or
  - (b) any other article which has a blade or is sharply pointed, commits an offence.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that he had good reason or lawful authority for having the weapon or other article with him in the prison.
- (3) A defence under subsection (2) includes, in particular, a defence that the person had the weapon or other article with him in prison—
  - (a) for use at work,
  - (b) for religious reasons, or
  - (c) as part of any national costume.
- (4) Where a person is convicted of an offence under subsection (1), the court may make an order for the forfeiture of any weapon or other article to which the offence relates.

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**Changes to legislation:** *Custodial Sentences and Weapons (Scotland) Act 2007, Cross Heading: Possession of weapons in prisons etc. is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (5) Any weapon or other article forfeited under subsection (4) is, subject to section 193 of the Criminal Procedure (Scotland) Act 1995 (c. 46), to be disposed of as the court may direct.
- (6) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both,
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years or a fine or both.
- (7) In this section—
- “offensive weapon” has the meaning given by section 47(4),
- “prison” includes—
- (a) any prison other than a naval, military or air force prison,
  - (b) a remand centre (within the meaning of paragraph (a) of subsection (1) of section 19 of the Prisons (Scotland) Act 1989 (c. 45) (provision of remand centres and young offenders institutions),
  - (c) a young offenders institution (within the meaning of paragraph (b) of that subsection), and
  - (d) secure accommodation within the meaning of section 93(1) of the Children (Scotland) Act 1995 (c. 36).”.

**Changes to legislation:**

Custodial Sentences and Weapons (Scotland) Act 2007, Cross Heading: Possession of weapons in prisons etc. is up to date with all changes known to be in force on or before 19 April 2024.

There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 29A inserted by [2010 asp 13 s. 18\(6\)](#)
- s. 42A inserted by [2010 asp 13 Sch. 3 para. 6](#)
- s. 45(1)(za)(zb) inserted by [2010 asp 13 Sch. 3 para. 7\(2\)](#)
- s. 46A inserted by [2010 asp 13 s. 18\(7\)](#)
- s. 47(3A) inserted by [2010 asp 13 s. 18\(8\)\(c\)](#)
- s. 47(8)(a)(b) substituted for words by [2010 asp 13 s. 18\(8\)\(e\)](#)
- s. 51(1A) inserted by [2010 asp 13 Sch. 3 para. 9\(3\)](#)
- Sch. 2 para. 1(4) added by [2010 asp 13 Sch. 3 para. 13\(3\)\(c\)](#)
- Sch. 2 para. 7(1A) inserted by [2010 asp 13 Sch. 3 para. 13\(8\)](#)
- Sch. 3 para. 2A inserted by [2010 asp 13 Sch. 3 para. 14\(3\)](#)
- Sch. 3 para. 3(3) inserted by [2010 asp 13 Sch. 3 para. 14\(4\)\(b\)](#)
- Sch. 3 para. 3A inserted by [2010 asp 13 Sch. 3 para. 14\(5\)](#)
- Sch. 3 para. 5(4A) inserted by [2010 asp 13 Sch. 3 para. 14\(6\)\(d\)](#)
- Sch. 3 para. 5(6) inserted by [2010 asp 13 Sch. 3 para. 14\(6\)\(e\)](#)