



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 2

### CRIMINAL LAW

#### *Offensive weapons etc.*

#### 37 **Offensive weapons etc.**

(1) The Criminal Law (Consolidation) (Scotland) Act 1995 (c.39) is amended as follows.

(2) In section 47 (prohibition of the carrying of offensive weapons)—

- (a) in subsection (1), the words from “without” to “him,” are repealed,
- (b) after subsection (1), insert—

“(1A) It is a defence for a person charged with an offence under subsection (1) to show that the person had a reasonable excuse or lawful authority for having the weapon with the person in the public place.”, and

- (c) for subsection (4), substitute—

“(4) In this section—

“offensive weapon” means any article—

- (a) made or adapted for use for causing injury to a person, or
- (b) intended, by the person having the article, for use for causing injury to a person by—
  - (i) the person having it, or
  - (ii) some other person,

“public place” means any place other than—

- (a) domestic premises,
- (b) school premises (within the meaning of section 49A(6)),

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*Status: This is the original version (as it was originally enacted).*

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(c) a prison (within the meaning of section 49C(7)),  
“domestic premises” means 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).”.

- (3) In section 49 (offence of having in public place article with blade or point)—
- (a) in subsection (4), for the words “prove that he had good reason” substitute “show that the person had a reasonable excuse”,
  - (b) in subsection (5), for “prove” substitute “show”, and
  - (c) for subsection (7), substitute—  

“(7) In this section, “public place” has the same meaning as in section 47(4).”.
- (4) In section 49A (offence of having article with blade or point (or offensive weapon) on school premises)—
- (a) in subsection (3), for the words “prove that he had good reason” substitute “show that the person had a reasonable excuse”, and
  - (b) in subsection (4), for “prove” substitute “show”.
- (5) In section 49C(2) (offence of having offensive weapon etc. in prison), for the words “prove that he had good reason” substitute “show that the person had a reasonable excuse”.
- (6) In section 50(4) (extension of constable’s power to stop, search and arrest without warrant), for “3” substitute “4”.