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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 431 (C.34 )**

**CRIMINAL LAW**

**The Custodial Sentences and Weapons (Scotland)  
Act 2007 (Commencement No. 1) Order 2007**

*Made - - - - 10th September 2007*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 67(2) of the Custodial Sentences and Weapons (Scotland) Act 2007(1).

**Citation**

1. This Order may be cited as the Custodial Sentences and Weapons (Scotland) Act 2007 (Commencement No. 1) Order 2007.

**Interpretation**

2. In this Order, “the 2007 Act” means the Custodial Sentences and Weapons (Scotland) Act 2007.

**Appointed day**

3. The appointed day for the coming into force of the provisions of the 2007 Act mentioned in column 1 of the Schedule to this Order is the day specified in column 2 of the Schedule, but where a purpose is specified in relation to a provision in column 1, that provision shall only come into force for the specified purpose.

St Andrew’s House,  
Edinburgh  
10th September 2007

*KENNY MACASKILL*  
A member of the Scottish Executive

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Article 3

## Table of Commencements of the 2007 Act

<i>Column 1</i> <i>Provisions to be commenced</i>	<i>Column 2</i> <i>Appointed day</i>
Section 62	1st October 2007
Section 58 but only for the purpose of enabling the Scottish Ministers to make orders under sections 27A(7) and (8), 27C(1)(a), 27K(7) and 27R of the Civic Government (Scotland) Act 1982 (c. 45) and only for the purpose enabling the High Court to make an Act of Adjournal under section 27K(4) of that Act	1st November 2007
Sections 60(1)(a), 61 and 63	1st November 2007
Section 60(1)(b), for the purpose of inserting subsections (11F) to (11J) into section 141 of the Criminal Justice Act 1988 (c. 33)	1st November 2007
Section 66(2) and schedule 5, in so far as is necessary to bring into force the repeal of section 141(3) of the Criminal Justice Act 1988	1st November 2007

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Commencement Order brings into force sections 58, 60(1)(a) and (b), 61 to 63 and 66(2) and schedule 5 to the Custodial Sentences and Weapons (Scotland) Act 2007 (“the 2007 Act”). Sections 58, 60(1)(b), 66(2) and schedule 5 are only brought into force for certain specified purposes.

Section 58 inserts new sections 27A to 27S into the Civic Government (Scotland) Act 1982 (“the 1982 Act”). These sections make provision for knife dealers' licences. A knife dealer's licence will be required for carrying on a business as a dealer in any article mentioned in section 27A(2) of the 1982 Act. The new sections are only being commenced for the purposes of enabling orders (and, in the case of section 27K(4), an Act of Adjournal) to be made under the following sections of the 1982 Act:

- section 27A(7), which allows the Scottish Ministers to modify the articles that fall within the scope of the licensing scheme;
- section 27A(8), which allows the Scottish Ministers to modify the definition of “dealer” for the purposes of the licensing scheme, and specify descriptions of activity that are not to be taken to be business activities for the purposes of the scheme;
- section 27C(1)(a), which allows the Scottish Ministers to specify conditions that must be attached to a knife dealer's licence;

- section 27K(4), which provides that an application for the recovery of forfeited property must be made in such manner as may be prescribed by Act of Adjournal;
- section 27K(7), which allows the Scottish Ministers to make provision in connection with the disposal of property forfeited under a forfeiture order in certain circumstances; and
- section 27R, which allows the Scottish Ministers to provide that a number of offences connected with the knife licensing scheme are subject to such exceptions as may be specified in the order.

Section 60 of the 2007 Act makes changes to section 141 of the Criminal Justice Act 1988 (prohibition on sale etc. of certain weapons) (“the 1988 Act”). The provisions that are commenced by this Order make changes to the burden of proof that applies to the existing defences in subsections (5), (8) and (9) of section 141 of the 1988 Act, and add a power for the Scottish Ministers to modify section 141 by order in relation to any description of weapon specified in the order.

Section 61 of the 2007 Act makes provision relating to the sale of swords. The effect of commencing this section is that a new section 141ZA will be added to the 1988 Act. This section will apply where the Scottish Ministers specify swords in an order under section 141(2) of the 1988 Act.

Section 62 of the 2007 Act amends provisions in the Crossbows Act 1987 (c. 32) in order to raise the age threshold for various activities relating to crossbows from 17 to 18.

Section 63 of the 2007 Act adds a new section 49C to the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39). This section creates a new offence of having an offensive weapon in a prison.

Section 66(2) of the 2007 Act introduces schedule 5 which makes provision for repeals. Section 141(3) of the 1988 Act is repealed in view of new section 141(11J) of the 1988 Act, inserted by section 60(1)(b) of the 2007 Act.