

**2009 No. 197 (C. 16)**

**CRIMINAL LAW**

**The Custodial Sentences and Weapons (Scotland) Act 2007  
(Commencement No. 2 and Transitional Provisions) Order 2009**

*Made* - - - -

*21st May 2009*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 65(2)(b) and 67(2) of the Custodial Sentences and Weapons (Scotland) Act 2007(a).

**Citation and interpretation**

1.—(1) This Order may be cited as the Custodial Sentences and Weapons (Scotland) Act 2007 (Commencement No. 2 and Transitional Provisions) Order 2009.

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

**Appointed day**

2. The appointed day for the coming into force of the provisions of the 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 only comes into force for the specified purpose.

**Transitional provisions**

3.—(1) A person who on or after 1st June 2010 does anything for which a licence is required under section 27A(1) of the Civic Government (Scotland) Act 1982(b) is not to be guilty of an offence under section 7(A1) of that Act for failure to have such a licence if—

- (a) that person made an application to the licensing authority before 2nd December 2009 for the grant of a knife dealer’s licence; and
- (b) the application has, through no failure on the part of that person, not yet been finally determined.

(2) For the purposes of paragraph (1)(b), an application is finally determined—

- (a) when it is withdrawn by the applicant;
- (b) when it is refused by the licensing authority and the period of 28 days specified in paragraph 18(4) of Schedule 1 to the Civic Government (Scotland) Act 1982 expires without an appeal against the refusal being made to the sheriff; or
- (c) in a case where an appeal is made against a refusal by the licensing authority, when that appeal is disposed of.

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(a) 2007 asp 17.

(b) 1982 c.45. Section 27A was inserted by section 58 of the Custodial Sentences and Weapons (Scotland) Act 2007, asp 17.

(3) For the purposes of paragraph (2)(c), an appeal is disposed of–

- (a) when it is abandoned by the appellant; or
- (b) when a decision on it is made by the sheriff or a higher court and any period for making a subsequent appeal to a higher court expires without such a subsequent appeal being made.

St Andrew's House,  
Edinburgh  
21st May 2009

*KENNY MACASKILL*  
A member of the Scottish Executive

## SCHEDULE

Article 2

### Table of Commencements of the Act

<i>Column 1</i> <i>Provisions to be commenced</i>	<i>Column 2</i> <i>Appointed day</i>
Section 58 for the purposes of inserting section 27S, to the extent not already in force, into the Civic Government (Scotland) Act 1982 (c.45)	1st June 2009
Section 58 for the purposes of inserting the following provisions into the Civic Government (Scotland) Act 1982:  27A(1) for the purposes of the definition of a “knife dealer’s licence”; 27A(2) to (6); 27B; 27C to the extent not already in force; 27L for the purposes of the offences specified in paragraphs (a) and (b) of that section; 27M to 27Q; and 27R to the extent not already in force	1st September 2009
Section 59(1) and 59(3)(d)	1st September 2009
Section 58 to the extent not already in force	1st June 2010
Section 59 to the extent not already in force	1st June 2010

## EXPLANATORY NOTE

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

This Order brings into force sections 58 and 59 of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) (“the 2007 Act”).

Section 58 of the 2007 Act inserts new sections 27A to 27S into the Civic Government (Scotland) Act 1982 (c.45) (“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 Order makes provision for the regime for knife dealers’ licences to fully commence on 1st June 2010. The Order makes provision for partial commencement of the knife dealer’s licensing regime to come into force on 1st September 2009 to enable applications for knife dealer’s licences to be made and for such licences to be granted prior to 1st June 2010.

Section 59 of the 2007 Act makes further amendments to the 1982 Act relating to knife dealers’ licences including an amendment to section 7 of the 1982 Act to provide that a person who without reasonable excuse does anything for which a licence is required under section 27A of the 1982 Act without having such a licence is guilty of an offence.

Article 3 of the Order makes transitional provision that has the effect that a person will not be guilty of an offence under section 7(A1) of the 1982 Act by virtue of doing anything for which a knife dealer’s licence is required under section 27A of that Act if that person has applied for a knife dealer’s licence before 2nd December 2009 but that application has not yet been finally determined by the time section 58 comes fully into force on 1st June 2010.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

The following provisions of the Act have been brought into force by commencement order made before the date of this Order—

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 58 (partially)	1st November 2007	2007/431
Section 60 (partially)	1st November 2007	2007/431
Section 61	1st November 2007	2007/431
Section 62	1st October 2007	2007/431
Section 63	1st November 2007	2007/431
Section 66 (partially)	1st November 2007	2007/431
Schedule 5 (partially)	1st November 2007	2007/431

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£4.00

60. 05/09. 19593.