



# Criminal Law (Consolidation) (Scotland) Act 1995

## 1995 CHAPTER 39

### PART VI

#### MISCELLANEOUS AND GENERAL

##### *False oaths etc.*

#### **44 False statements and declarations.**

- (1) Any person who—
- (a) is required or authorised by law to make a statement on oath for any purpose; and
  - (b) being lawfully sworn, wilfully makes a statement which is material for that purpose and which he knows to be false or does not believe to be true,
- shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding five years or to a fine or to both such fine and imprisonment.
- (2) Any person who knowingly and wilfully makes, otherwise than on oath, a statement false in a material particular, and the statement is made—
- (a) in a statutory declaration; or
  - (b) in an abstract, account, balance sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return or other document which he is authorised or required to make, attest or verify by, under or in pursuance of any public general Act of Parliament for the time being in force; or
  - (c) in any oral declaration or oral answer which he is authorised or required to make by, under or in pursuance of any public general Act of Parliament for the time being in force; or
  - (d) in any declaration not falling within paragraph (a), (b), or (c) above which he is required to make by an order under section 2 of the <sup>M1</sup>Evidence (Proceedings in Other Jurisdictions) Act 1975,

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shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding two years or to a fine or to both such fine and imprisonment.

(3) Any person who—

- (a) procures or attempts to procure himself to be registered on any register or roll kept under or in pursuance of any Act of Parliament for the time being in force of persons qualified by law to practise any vocation or calling; or
- (b) procures or attempts to procure a certificate of the registration of any person on any such register or roll,

by wilfully making or producing or causing to be made or produced either verbally or in writing, any declaration, certificate or representation which he knows to be false or fraudulent, shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding 12 months or to a fine or to both such fine and imprisonment.

(4) Subsection (2) above applies to any oral statement made for the purpose of any entry in a register kept in pursuance of any Act of Parliament as it applies to the statements mentioned in that subsection.

#### **Marginal Citations**

**M1** 1975 c.34.

#### **45 Provisions supplementary to section 44.**

- (1) Any person who aids, abets, counsels, procures or suborns another person to commit an offence against section 44 of this Act shall be liable to be proceeded against, indicted, tried and punished as if he were a [<sup>F1</sup>principal] offender
- (2) Any person who incites or attempts to procure or suborn another person to commit an offence against that section shall be guilty of an offence and be liable on conviction to imprisonment or to a fine or to both such fine and imprisonment.
- (3) Nothing in section 44 and 46(1) of this Act and subsections (1) and (2) above shall affect the common law relating to the crime of perjury or to any crime or offence involving falsehood, fraud or wilful imposition, or the liability of any person to be prosecuted for any such crime or offence, provided that no person shall be liable in respect of the same matter to be punished both at common law and under these sections.
- (4) Where the making of a false statement is not only an offence under the said sections 44 or 46(1) or under subsection (1) or (2) above, but also by virtue of some other Act is a corrupt practice or subjects the offender to any forfeiture or disqualification or to any penalty other than imprisonment or a fine, the liability of the offender under these sections shall be in addition to and not in substitution for his liability under such other Act.
- (5) Where the making of a false statement is by any other Act whether passed before or after the commencement of this Act, made punishable on summary conviction, proceedings may be taken either under such other Act or under this Act.

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#### Textual Amendments

**F1** Word in s. 45(1) substituted (1.8.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 18(8)**; S.I. 1997/1712, art. 3, **Sch.**

## 46 Proceedings.

- (1) For the purposes of any proceedings at common law for perjury or of any proceedings for a contravention of section 44(1) of this Act—
  - (a) the forms and ceremonies used in administering an oath shall be immaterial if the court or person before whom the oath is taken has power to administer an oath for the purpose of verifying the statement in question, and if the oath has been administered in a form and with ceremonies which the person taking the oath has accepted without objection or has declared to be binding on him;
  - (b) an affirmation or declaration made in lieu of an oath shall be of the like effect in all respects as if it had been made on oath.
- (2) Where an offence against section 44 of this Act is committed in any place outside the United Kingdom, the offender may be proceeded against, tried and punished in any place in Scotland where he was apprehended or is in custody as if the offence had been committed in that place; and for all purposes incidental to or consequential on the trial or punishment of the offence, it shall be deemed to have been committed in that place.
- (3) Any summary criminal proceedings for an offence against section 44 of this Act may, notwithstanding anything in the <sup>M2</sup>Criminal Procedure (Scotland) Act 1995, be commenced at any time within one year from the date of the commission of the offence, or within three months from the date when evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge whichever period last expires; and for the purposes of this section a certificate purporting to be signed by or on behalf of the Lord Advocate as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof.
- (4) In sections 44 and 45 of this Act and in this section, the expression “statutory declaration” means a declaration made by virtue of the <sup>M3</sup>Statutory Declarations Act 1835 or of any enactment (including subordinate legislation) applying or extending the provisions of that Act.

#### Marginal Citations

**M2** 1995 c.46.  
**M3** 1835 c.62.

*<sup>F2</sup>False monetary instruments*

#### Textual Amendments

**F2** S. 46A inserted (26.4.2004) by **Crime (International Co-operation) Act 2003 (c. 32), ss. 89, 94**; S.S.I. 2004/175, **art. 2**

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#### **46A False monetary instruments**

- (1) A person who counterfeits or falsifies a specified monetary instrument with the intention that it be uttered as genuine is guilty of an offence.
- (2) A person who has in his custody or under his control, without lawful authority or excuse—
  - (a) anything which is, and which he knows or believes to be, a counterfeited or falsified specified monetary instrument; or
  - (b) any machine, implement or computer programme, or any paper or other material, which to his knowledge is specially designed or adapted for the making of a specified monetary instrument,
 is guilty of an offence.
- (3) For the purposes of subsections (1) and (2)(a) above, it is immaterial that the specified monetary instrument (or purported specified monetary instrument) is not in a fit state to be uttered or that the counterfeiting or falsifying of it has not been finished or perfected.
- (4) A person guilty of an offence under this section is liable on summary conviction—
  - (a) to a fine not exceeding the statutory maximum;
  - (b) to imprisonment for a term not exceeding six months; or
  - (c) both to a fine and to such imprisonment.
- (5) A person guilty of an offence—
  - (a) under subsection (1) above is liable on conviction on indictment—
    - (i) to a fine;
    - (ii) to imprisonment for a term not exceeding ten years; or
    - (iii) both to a fine and to such imprisonment;
  - (b) under subsection (2) above is liable on conviction on indictment—
    - (i) to a fine;
    - (ii) if it is proved that the offence was committed with the intention that the specified monetary instrument in question be uttered (or as the case may be that a specified monetary instrument be uttered), to imprisonment for a term not exceeding ten years and if it is not so proved, to imprisonment for a term not exceeding two years; or
    - (iii) both to a fine and to imprisonment for a term not exceeding ten years, if it is proved as mentioned in sub-paragraph (ii) above, or both to a fine and to imprisonment for a term not exceeding two years if it is not so proved.
- (6) Where an offence under this section which has been committed—
  - (a) by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that body; or
  - (b) by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a member of that partnership,
 or by any person who was purporting to act in any such capacity, he as well as the body corporate, or as the case may be the partnership, is guilty of that offence and is liable to be proceeded against and punished accordingly.

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- (7) Where the affairs of a body corporate are managed by its members, subsection (6) above applies in relation to the actings and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (8) In subsections (1) to (5) above, “specified” means for the time being specified for the purposes of this section, by order made by the Scottish Ministers.
- (9) The power to make an order under subsection (8) above—
  - (a) includes power to make such incidental, supplemental, transitional or transitory provision as the Scottish Ministers think necessary or expedient; and
  - (b) is exercisable by statutory instrument.
- (10) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

### *Offensive weapons*

#### **47 Prohibition of the carrying of offensive weapons.**

- (1) Any person who without lawful authority or reasonable excuse, the proof whereof shall lie on him, has with him in any public place any offensive weapon shall be guilty of an offence, and shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding [<sup>F3</sup>four] years or a fine, or both.
- (2) Where any person is convicted of an offence under subsection (1) above the court may make an order for the forfeiture or disposal of any weapon in respect of which the offence was committed.
- (3) A constable may arrest without warrant any person whom he has reasonable cause to believe to be committing an offence under subsection (1) above, if the constable is not satisfied as to that person’s identity or place of residence, or has reasonable cause to believe that it is necessary to arrest him in order to prevent the commission by him of any other offence in the course of committing which an offensive weapon might be used.
- (4) In this section “public place” includes any road within the meaning of the <sup>M4</sup>Roads (Scotland) Act 1984 and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise; and “offensive weapon” means any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him [<sup>F4</sup>or by some other person].

#### **Textual Amendments**

**F3** Word in s. 47(1)(b) substituted (4.7.1996) by 1996 c. 26, s. 2(2)(4)

**F4** Words in s. 47(4) inserted (4.7.1996) by 1996 c. 26, s. 5

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### Marginal Citations

M4 1984 c.54.

## 48 Search for offensive weapons.

- (1) Where a constable has reasonable grounds for suspecting that any person is carrying an offensive weapon and has committed or is committing an offence under section 47 of this Act, the constable may search that person without warrant, and detain him for such time as is reasonably required to permit the search to be carried out; and he shall inform the person of the reason for such detention.
- (2) Any person who—
  - (a) intentionally obstructs a constable in the exercise of the constable’s powers under subsection (1) above; or
  - (b) conceals from a constable acting in the exercise of those powers an offensive weapon,
 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (3) A constable may arrest without warrant any person who he has reason to believe has committed an offence under subsection (2) above.
- (4) In this section, “offensive weapon” has the same meaning as in the said section 47.

## 49 Offence of having in public place article with blade or point.

- (1) Subject to subsections (4) and (5) below, any person who has an article to which this section applies with him in a public place shall be guilty of an offence and liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both; and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed.
- (3) This section does not apply to a folding pocketknife if the cutting edge of its blade does not exceed three inches (7.62 centimetres).
- (4) It shall be a defence for a person charged with an offence under subsection (1) above to prove that he had good reason or lawful authority for having the article with him in the public place.
- (5) Without prejudice to the generality of subsection (4) above, it shall be a defence for a person charged with an offence under subsection (1) above to prove that he had the article with him—
  - (a) for use at work;
  - (b) for religious reasons; or
  - (c) as part of any national costume.
- (6) Where a person is convicted of an offence under subsection (1) above the court may make an order for the forfeiture of any article to which the offence relates, and any article forfeited under this subsection shall (subject to section 193 of the <sup>M5</sup>Criminal

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Procedure (Scotland) Act 1995 (suspension of forfeiture etc, pending appeal)) be disposed of as the court may direct.

- (7) In this section “public place” includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

#### Marginal Citations

M5 1995 c.46.

### [<sup>F5</sup>49A Offence of having article with blade or point (or offensive weapon) on school premises.

- (1) Any person who has an article to which section 49 of this Act applies with him on school premises shall be guilty of an offence.
- (2) Any person who has an offensive weapon within the meaning of section 47 of this Act with him on school premises shall be guilty of an offence.
- (3) It shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had good reason or lawful authority for having the article or weapon with him on the premises in question.
- (4) Without prejudice to the generality of subsection (3) above, it shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had the article or weapon in question with him—
  - (a) for use at work,
  - (b) for educational purposes,
  - (c) for religious reasons, or
  - (d) as part of any national costume.
- (5) A person guilty of an offence—
  - (a) under subsection (1) above shall be liable—
    - (i) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both;
  - (b) under subsection (2) above shall be liable—
    - (i) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding four years, or a fine, or both.
- (6) In this section and section 49B of this Act, “school premises” means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school; and “school” has the meaning given by section 135(1) of the <sup>M6</sup>Education (Scotland) Act 1980.]

#### Textual Amendments

F5 Ss. 49A, 49B inserted (1.9.1996) by 1996 c. 26, s. 4(3)(4); S.I. 1996/2071, art. 2

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### Marginal Citations

**M6** 1980 c. 44.

### [<sup>F6</sup>49B Power of entry to search for articles with a blade or point and offensive weapons.

- (1) A constable may enter school premises and search those premises and any person on those premises for—
  - (a) any article to which section 49 of this Act applies, or
  - (b) any offensive weapon within the meaning of section 47 of this Act,
 if he has reasonable grounds for suspecting that an offence under section 49A of this Act is being, or has been, committed.
- (2) If in the course of a search under this section a constable discovers an article or weapon which he has reasonable grounds for believing to be an article or weapon of a kind described in subsection (1) above, he may seize it.
- (3) The constable may use reasonable force, if necessary, in the exercise of the power of entry conferred by this section.]

### Textual Amendments

**F6** Ss. 49A, 49B inserted (1.9.1996) by 1996 c. 26, s. 4(3)(4); S.I. 1996/2071, art. 2

VALID FROM 01/11/2007

### [<sup>F7</sup>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.
- (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.



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- (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).]

#### Textual Amendments

- F7** S. 49C inserted (1.11.2007) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), **ss. 63, 67(2)**; [S.S.I. 2007/431](#), **art. 3**, Sch.

## 50 Extension of constable’s power to stop, search and arrest without warrant.

- (1) Where a constable has reasonable grounds for suspecting that a person has with him an article to which section 49 of this Act applies and has committed or is committing an offence under subsection (1) of that section, the constable may search that person without warrant and detain him for such time as is reasonably required to permit the search to be carried out.
- (2) A constable who detains a person under subsection (1) above shall inform him of the reason for his detention.
- (3) Where a constable has reasonable cause to believe that a person has committed or is committing an offence under section 49(1) [<sup>F8</sup>or section 49A(1) or (2)] of this Act and the constable—
- (a) having requested that person to give his name or address or both—
    - (i) is not given the information requested; or
    - (ii) is not satisfied that such information as is given is correct; or
  - (b) has reasonable cause to believe that it is necessary to arrest him in order to prevent the commission by him of any other offence in the course of committing which an article to which that section applies might be used,
- he may arrest that person without warrant.
- (4) Any person who—
- (a) intentionally obstructs a constable in the exercise of the constable’s powers under subsection (1) above; or

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- (b) conceals from a constable acting in the exercise of those powers an article to which section 49 of this Act applies,  
shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Where a constable has reasonable cause to believe that a person has committed or is committing an offence under subsection (4) above he may arrest that person without warrant.

#### Textual Amendments

**F8** Words in s. 50(3) inserted (4.7.1996) by 1996 c. 26, s. 1(2)

*[<sup>F9</sup> Racially-aggravated harassment]*

#### Textual Amendments

**F9** Crossheading inserted (30.9.1998) by 1998 c. 37, s. 33; S.I. 1998/2327, art. 2(x)

#### <sup>F10</sup>50A [ Racially-aggravated harassment.]

- (1) A person is guilty of an offence under this section if he—
- (a) pursues a racially-aggravated course of conduct which amounts to harassment of a person and—
    - (i) is intended to amount to harassment of that person; or
    - (ii) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of that person; or
  - (b) acts in a manner which is racially aggravated and which causes, or is intended to cause, a person alarm or distress.
- (2) For the purposes of this section a course of conduct or an action is racially aggravated if—
- (a) immediately before, during or immediately after carrying out the course of conduct or action the offender evinces towards the person affected malice and ill-will based on that person's membership (or presumed membership) of a racial group; or
  - (b) the course of conduct or action is motivated (wholly or partly) by malice and ill-will towards members of a racial group based on their membership of that group.
- (3) In subsection (2)(a) above—
- “membership”, in relation to a racial group, includes association with members of that group;
- “presumed” means presumed by the offender.
- (4) It is immaterial for the purposes of paragraph (a) or (b) of subsection (2) above whether or not the offender's malice and ill-will is also based, to any extent, on—
- (a) the fact or presumption that any person or group of persons belongs to any religious group; or
  - (b) any other factor not mentioned in that paragraph.

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- (5) A person who is guilty of an offence under this section shall—
- (a) on summary conviction, be liable to a fine not exceeding the statutory maximum, or imprisonment for a period not exceeding six months, or both such fine and such imprisonment; and
  - (b) on conviction on indictment, be liable to a fine or to imprisonment for a period not exceeding seven years, or both such fine and such imprisonment.
- (6) In this section—
- “conduct” includes speech;
  - “harassment” of a person includes causing the person alarm or distress;
  - “racial group” means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins, and a course of conduct must involve conduct on at least two occasions.

#### Textual Amendments

**F10** S. 50A inserted (30.9.1998) by 1998 c. 37, s. 33; S.I. 1998/2327, art. 2(g)

#### *Reset*

### 51 **Reset.**

Criminal resetting of property shall not be limited to the receiving of property taken by theft or robbery, but shall extend to the receiving of property appropriated by breach of trust and embezzlement and by falsehood, fraud and wilful imposition.

#### *Vandalism*

### 52 **Vandalism.**

- (1) Subject to subsection (2) below, any person who, without reasonable excuse, wilfully or recklessly destroys or damages any property belonging to another shall be guilty of the offence of vandalism.
- (2) It shall not be competent to charge acts which constitute the offence of wilful fire-raising as vandalism under this section.
- (3) Any person convicted of the offence of vandalism shall be liable on summary conviction—
- (a) in the district court, to imprisonment for a term not exceeding 60 days, or to a fine not exceeding level 3 on the standard scale, or to both;
  - (b) in the sheriff court—
    - (i) for a first such offence, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the prescribed sum (within the meaning of section 225(8) of the <sup>M7</sup>Criminal Procedure (Scotland) Act 1995), or to both; and
    - (ii) for any subsequent such offence, to imprisonment for a term not exceeding 6 months, or to the fine mentioned in sub-paragraph (i) above, or to both.

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**Marginal Citations**

M7 1995 c. 46.

*General*

**53 Short title, commencement and extent.**

- (1) This Act may be cited as the Criminal Law (Consolidation) (Scotland) Act 1995.
- (2) This Act shall come into force on 1 April 1996.
- (3) Subject to subsection (4) below, this Act extends only to Scotland.
- (4) Section 35(10) to (12) of this Act extends also to England and Wales and sections 27 to 29 of this Act and this section extend also to England and Wales and Northern Ireland.

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Point in time view as at 26/04/2004. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Criminal Law (Consolidation) (Scotland) Act 1995, Part VI is up to date with all changes known to be in force on or before 05 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.