



Criminal Law (Consolidation) (Scotland) Act 1995

1995 CHAPTER 39

PART VI

MISCELLANEOUS AND GENERAL

Offensive weapons

[^{F1}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 [^{F2}show that the person had a reasonable excuse] 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.
- (6) A person guilty of an offence under subsection (1) is liable—

Changes to legislation: Criminal Law (Consolidation) (Scotland) Act 1995, Section 49C is up to date with all changes known to be in force on or before 20 March 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

- (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 [F35] 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

- F1** 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.
- F2** Words in s. 49C(2) substituted (13.12.2010 for specified purposes) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 37(5), 206(1)**; S.S.I. 2010/413, **art. 2**, Sch.
- F3** Word in s. 49C(6)(b) substituted (10.3.2016) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), **ss. 84(5), 117(2)**; S.S.I. 2016/95, **art. 2** (with art. 3)

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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. 30(8) added by [2010 asp 13 s. 200\(2\)\(a\)](#)
- s. 45(6) added by [2010 asp 13 s. 200\(2\)\(c\)](#)
- s. 46(5) added by [2010 asp 13 s. 200\(2\)\(d\)\(ii\)](#)