



# Violent Crime Reduction Act 2006

## 2006 CHAPTER 38

### PART 2

#### WEAPONS ETC.

##### *Dangerous weapons*

#### **28 Using someone to mind a weapon**

- (1) A person is guilty of an offence if—
  - (a) he uses another to look after, hide or transport a dangerous weapon for him; and
  - (b) he does so under arrangements or in circumstances that facilitate, or are intended to facilitate, the weapon's being available to him for an unlawful purpose.
- (2) For the purposes of this section the cases in which a dangerous weapon is to be regarded as available to a person for an unlawful purpose include any case where—
  - (a) the weapon is available for him to take possession of it at a time and place; and
  - (b) his possession of the weapon at that time and place would constitute, or be likely to involve or to lead to, the commission by him of an offence.
- (3) In this section “dangerous weapon” means—
  - (a) a firearm other than an air weapon or a component part of, or accessory to, an air weapon; or
  - (b) a weapon to which section 141 or 141A of the Criminal Justice Act 1988 (c. 33) applies (specified offensive weapons, knives and bladed weapons).
- (4) In its application to Scotland, this section has effect with the omission of subsection (3) (b), and of the word “or” immediately preceding it.

**29 Penalties etc. for offence under s. 28**

- (1) This section applies where a person (“the offender”) is guilty of an offence under section 28.
- (2) Where the dangerous weapon in respect of which the offence was committed is a weapon to which section 141 or 141A of the Criminal Justice Act 1988 (specified offensive weapons, knives and bladed weapons) applies, the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.
- (3) Where—
  - (a) at the time of the offence, the offender was aged 16 or over, and
  - (b) the dangerous weapon in respect of which the offence was committed was a firearm mentioned in section 5(1)(a) to (af) or (c) or section 5(1A)(a) of the 1968 Act (firearms possession of which attracts a minimum sentence),the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine, or to both.
- (4) On a conviction in England and Wales, where—
  - (a) subsection (3) applies, and
  - (b) the offender is aged 18 or over at the time of conviction,the court must impose (with or without a fine) a term of imprisonment of not less than 5 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (5) In relation to times before the commencement of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43), the reference in subsection (4) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.
- (6) On a conviction in England and Wales, where—
  - (a) subsection (3) applies, and
  - (b) the offender is aged under 18 at the time of conviction,the court must impose (with or without a fine) a term of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) of not less than 3 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (7) On a conviction in Scotland, where—
  - (a) subsection (3) applies, and
  - (b) the offender is aged 21 or over at the time of conviction,the court must impose (with or without a fine) a sentence of imprisonment of not less than 5 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (8) On a conviction in Scotland, where—
  - (a) subsection (3) applies, and
  - (b) the offender is aged under 21 at the time of conviction and is not a person in whose case subsection (9) applies,the court must impose (with or without a fine) a sentence of detention under section 207 of the Criminal Procedure (Scotland) Act 1995 (c. 46) of not less than 3

years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.

- (9) On a conviction in Scotland, where—
- (a) subsection (3) applies, and
  - (b) the offender is, at the time of conviction, both aged under 18 and subject to a supervision requirement,
- the court must impose (with or without a fine) a sentence of detention under section 208 of the Criminal Procedure (Scotland) Act 1995 of not less than 3 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (10) In any case not mentioned in subsection (2) or (3), the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both.
- (11) Where—
- (a) a court is considering for the purposes of sentencing the seriousness of an offence under section 28, and
  - (b) at the time of the offence the offender was aged 18 or over and the person used to look after, hide or transport the weapon was not,
- the court must treat the fact that that person was under the age of 18 at that time as an aggravating factor (that is to say, a factor increasing the seriousness of the offence).
- (12) Where a court treats a person's age as an aggravating factor in accordance with subsection (11), it must state in open court that the offence was aggravated as mentioned in that subsection.
- (13) Where—
- (a) an offence under section 28 of using another person for a particular purpose is found to have involved that other person's having possession of a weapon, or being able to make it available, over a period of two or more days, or at some time during a period of two or more days, and
  - (b) on any day in that period, an age requirement was satisfied,
- the question whether subsection (3) applies or (as the case may be) the question whether the offence was aggravated under this section is to be determined as if the offence had been committed on that day.
- (14) In subsection (13) the reference to an age requirement is a reference to either of the following—
- (a) the requirement of subsection (3) that the offender was aged 16 or over at the time of the offence;
  - (b) the requirement of subsection (11) that the offender was aged 18 or over at that time and that the other person was not.
- (15) In its application to Scotland, this section has effect with the omission of subsection (2), and of the reference to it in subsection (10).