



Offender Management Act 2007

2007 CHAPTER 21

PART 2

PRISONS

Offences relating to prison security

23 Other offences relating to prison security

- (1) After section 40C of the Prison Act 1952 (as substituted for section 40 of that Act by section 22 above) there is inserted—

“40D Other offences relating to prison security

- (1) A person who, without authorisation—
- (a) takes a photograph, or makes a sound-recording, inside a prison, or
 - (b) transmits, or causes to be transmitted, any image or any sound from inside a prison by electronic communications for simultaneous reception outside the prison,
- is guilty of an offence.
- (2) It is immaterial for the purposes of subsection (1)(a) where the recording medium is located.
- (3) A person who, without authorisation—
- (a) brings or otherwise conveys a restricted document out of a prison or causes such a document to be brought or conveyed out of a prison, or
 - (b) transmits, or causes to be transmitted, a restricted document (or any information derived from a restricted document) from inside a prison by means of electronic communications,
- is guilty of an offence.

Changes to legislation: *Offender Management Act 2007, Section 23 is up to date with all changes known to be in force on or before 11 December 2023. 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*

- (4) In proceedings for an offence under this section it is a defence for the accused to show that—
- (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
 - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (5) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or both); or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both).

40E Section 40D: meaning of “authorisation” and other interpretation

- (1) In section 40D (and the following provisions of this section) “authorisation” means authorisation given for the purposes of that section—
- (a) in relation to all prisons or prisons of a specified description, by prison rules or by the Secretary of State;
 - (b) in relation to a particular prison—
 - (i) by the Secretary of State;
 - (ii) by the governor or director of the prison;
 - (iii) by a person working at the prison who is authorised by the governor or director to grant authorisation on his behalf.

In paragraph (a) “specified” means specified in the authorisation.

- (2) Authorisation may be given—
- (a) to persons generally or to specified persons or persons of a specified description; and
 - (b) on such terms as may be specified.

In this subsection “specified” means specified in the authorisation.

- (3) Authorisation given by or on behalf of the governor or director of a prison must be in writing.
- (4) In section 40D “restricted document” means the whole (or any part of)—
- (a) a photograph taken inside the prison;
 - (b) a sound-recording made inside the prison;
 - (c) a personal record (or a document containing information derived from a personal record);
 - (d) any other document which contains—
 - (i) information relating to an identified or identifiable relevant individual, if the disclosure of that information would or might prejudicially affect the interests of that individual; or
 - (ii) information relating to any matter connected with the prison or its operation, if the disclosure of that information would or might prejudicially affect the security or operation of the prison.

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(5) In subsection (4)—

“personal record” means any record which is required by prison rules to be prepared and maintained in relation to any prisoner (and it is immaterial whether or not the individual concerned is still a prisoner at the time of any alleged offence);

“relevant individual” means an individual who is or has at any time been—

- (a) a prisoner or a person working at the prison; or
- (b) a member of such a person's family or household.

(6) In section 40D and this section—

“document” means anything in which information is recorded (by whatever means);

“electronic communications” has the same meaning as in the Electronic Communications Act 2000 (c. 7);

“photograph” means a recording on any medium on which an image is produced or from which an image (including a moving image) may by any means be produced; and

“sound-recording” means a recording of sounds on any medium from which the sounds may by any means be reproduced.”

(2) Section 41 of the Prison Act 1952 (c. 52) (unlawful introduction of other articles) ceases to have effect.

(3) In section 42 (display of notice of penalties) for “the three last preceding sections” there is substituted “ sections 39 to 40D ”.

Commencement Information

II S. 23 in force at 1.4.2008 by S.I. 2008/504, art. 3(i)

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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. 14(2)(da) inserted by [2015 c. 2 Sch. 3 para. 15](#)