

Offensive Weapons

S.1 of the Prevention of Crime Act 1953 provides that any person who without lawful authority or reasonable excuse has with him in any public place any offensive weapon shall be guilty of an offence.

A “public place” includes any highway and any other premises or place to which 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, or intended by the person having it with him for such use.

The penalty is currently imprisonment for a term not exceeding six months, or a fine not exceeding £200, or both (in the Magistrates’ Court) or imprisonment for a term not exceeding four years, or a fine not exceeding £100, or both (in the Crown Court.)

S.1 of the Restriction of Offensive Weapons Act 1959 provides that any person who manufactures, sells or hires or offers for sale or hire, or exposes or has in his possession for the purpose of sale or hire or lends or gives to any other person (a) any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a “flick knife” or “flick gun”; or (b) any knife which has a blade which is released from the handle or sheath by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever, or other device, sometimes known as a “gravity knife”; shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale (currently £2,500) or to both.

S.141 of the Criminal Justice Act 1988 provides that any person who manufactures, sells or hires or offers for sale or hire, exposes or has in his possession for the purpose of sale or hire, or lends or gives to any other person, a weapon to which this section applies shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum (currently £5,000), or both (in the Magistrates’ Court) or imprisonment for a term not exceeding four years, or a fine, or both (in the Crown Court.)

The Act allows the Secretary of State to specify those weapons to which this section applies and those currently designated as offensive weapons under this section include knuckledusters, swordsticks, “handclaws”, “belt-buckle knives”, push daggers, “hollow kubotans”, footclaws, death stars, butterfly knives, disguised knives, stealth knives and swords with curved blades of 50cm or more, measured from the top of the handle to the tip of the blade.

Other Knives

The current legal position is that by virtue of S.139 of the Criminal Justice Act 1988 it is an offence for a person to have in a public place a knife (other than a folding pocket knife with

a blade of less than 3 inches) or other bladed or pointed article; however, it is a defence for that person to show that they had good reason or lawful authority to have the knife etc. with them; it is also a defence for a person to show that they had the article with them for use at work, as part of any national costume or for religious reasons.

A public place is anywhere that the public has, or is permitted to have, access to – even if the public must pay for such access. A privately owned car or other vehicle is regarded as being a “public place” while the vehicle is on the public highway.

It is also established that a folding knife having a pointed blade of less than three inches in length and capable of being secured in an open position by a locking device is not a folding pocket knife within the meaning of S.139 of the Criminal Justice Act 1988. As such, if a folding knife has a locking blade of any length then it will be an offence for a person to have it in a public place without good reason or lawful authority. This may apply to many popular branded multi-tools.

The penalty for committing an offence under S.139 of the Criminal Justice Act 1988 is currently imprisonment for a term not exceeding six months (12 months in Northern Ireland), or a fine not exceeding the statutory maximum, or both (in the Magistrates’ Court) or imprisonment for a term not exceeding four years, or a fine, or both (in the Crown Court.)

Extent

The 1953 Act applies to England and Wales; the 1959 Act applies to England, Wales and Scotland, although article 53 of the Criminal Justice (Northern Ireland) Order 1996 applies equivalent provisions to N. Ireland; s.139 of the 1988 Act applies to England, Wales and N. Ireland; s.141 of the 1988 Act applies throughout the UK; ss. 47 & 49 of the Criminal Law (Consolidation) (Scotland) Act 1995 apply equivalent rules to the 1953 and 1988 Acts in Scotland.

RYA Advice

The view of the RYA is that having sailing knives ready to hand whilst on or around a boat is recommended as good safety practice, and that the best way of doing this is to have knives secured strategically on deck, as well as a personal knife in a suitable holder. Where open boats are concerned, obviously moveable equipment should be taken off when the boat is not in use.

Thus, in our view, if a person carrying a non-exempted knife is doing so while on board or travelling to or from their boat and the knife in question is genuinely "boating related", that person ought to be regarded as having good reason for carrying that knife. Knives that are used as part of a marine trade or profession, such as rigging knives, also should fall within the defence to the offence.

However, this does not mean that a yachtsman or sailor would be able to justify carrying a non-exempted knife at all times when ashore. For example, leaving a non-exempted knife in your car or in your pocket for when you next go sailing, forgetting that it is there or simply carrying it out of habit, might not of itself be regarded as “good reason” and might not therefore amount to a defence.

It must be borne in mind that what might constitute "good reason" will vary according to the particular circumstances and the type of knife involved in each particular case. Whether or not a person in fact had "good reason" is a matter for the Courts to determine.

For more information please contact the RYA Legal Team on 023 8060 4233 or legal@rya.org.uk

This guidance note has been produced with the assistance of the Association of Chief Police Officers of England, Wales and N. Ireland.

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