

Sale of Knives in Scotland

A Guide for Retailers, Enforcers, Procurators Fiscal and Licensing Authorities

1. Status of Guide

This information is offered as an informal guide for retailers, enforcers, procurators fiscal and licensing authorities.

It has been developed by representatives of those bodies, together with the Scottish Government, to enable a common approach to the interpretation and application of the various items of Scottish legislation on the retail sale of knives.

The Guide is not definitive and it is recognised that only the courts can determine the exact application of the law to any particular situation or circumstance.

It is also recognised that there may be instances in which retailers, enforcers and licensing authorities may need to collaborate to agree the appropriate interpretation and application of the law to reflect specific or localised issues beyond what can be achieved by this generalised guide.

2. Scope

This guide deals with two aspects of the legislation relating to the retail sales of knives, namely; the sale of knives to young persons and the licensing of dealers in other than domestic knives.

In particular this guide is intended to help all the interested parties with the interpretation of when a product is 'designed for domestic use', with the aim of achieving consistent application of the term and the avoidance of unnecessary or inappropriate licensing or refusals to sell to people between the ages of 16 and 18.

3. What is and is not covered by the legislation?

Local Regulation, formerly LACORS (the Local Authorities Coordinators of Regulatory Services) has already advised that the following are outside the scope of the legislation and may be freely sold to people of any age.

- Skewers
- Screw drivers
- Scissors
- Pruning saws
- Plasterboard saws
- Peelers

Furthermore, all knives and knife blades that are designed for domestic use can be legally sold to people over the age of 16 and other types of knives may legally be sold to anyone over the age of 18 if a licence is obtained.

The sale of certain knives is banned altogether.

It is illegal to lend, give, sell, hire or possess or expose for the purposes of sale or hire any of the following:

- Flick knives
- gravity knives
- belt buckle knives
- Stealth knives and disguised knives
- Swordsticks
- Push daggers, butterfly knives
- Kyotetsu shoge (a rope, cord or chain fastened to a hooked knife)
- Hand and foot claws, hollow kubotan with spikes, shuriken or death star
- Kusari gama (a rope, cord, wire or chain fastened at one end to a sickle)

(Manufacturing and importing any of these is also illegal)

[The Restriction of Offensive Weapons Act, 1959 and The Criminal Justice Act 1988 ref SSI 2005/483]

It should be noted however that there are exemptions to allow sales of these items for legitimate purposes, e.g. for use by armed forces or as collectors' pieces.

The Knives Act 1997 also prohibits the marketing of a knife or the publication of marketing material relating to a knife, in a way which:

- indicates or suggests that it is suitable for combat; or
- is likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.

The term 'suitable for combat' means that the knife is suitable for use as a weapon for inflicting injury or causing fear of injury to the person.

4. What is a 'knife designed for domestic use'?

In general, a knife designed for domestic use is one which is designed for and would normally be used by a consumer in the context of his home or family life. This extends to use in and around the home itself including in the garden and also to use when travelling and at activities such as picnics.

Products do not have to be exclusively domestic and some knives and knife blades will inevitably be designed with both commercial and domestic users in mind or may be designed for domestic use but also be used by some in the course of their business or trade. An obvious example would be "Stanley" type retractable knives and their replacement blades. Even so, such products are still domestic.

The guide cannot provide a definitive or exhaustive list of what is 'designed for domestic use' but categories or specific products can be identified that in the ordinary course would be considered to be designed for domestic use.

These include:

- Table cutlery and food preparation knives including picnic and similar travel equipment
- Health and Beauty or personal care products such as callous knives and manicure sets including travel kits
- DIY and decorating knives and their replacement blades including retractable and snap bladed knives, window and similar scrapers and wallpaper knives

- Craft and indoor hobby knives including sewing, knitting and associated haberdashery products
- Gardening knives in common usage but not exceptional items such as large machetes and scythes
- Automotive and cycling maintenance products

Whether or not an individual knife is considered to be designed for domestic use will be heavily influenced by the context in which it is marketed including the way it is described and the type of premises it is marketed from as well as its physical characteristics.

5. Requirement to obtain a licence to sell non domestic knives

From June 1 2010, any dealer in knives (and some other products) not designed for domestic use, supplying private consumers, must have obtained a licence from their local authority. These arrangements extend not just to businesses selling articles, but also to those hiring, lending or giving and to those offering and exposing articles for sale or hire.

The Custodial Sentences and Weapons (Scotland) Act 2007 amends the Civic Government (Scotland) Act 1982 and makes it compulsory from 01 June 2010 for any dealer in the following products to hold a **knife dealer's licence**:

knives (other than those designed for domestic use);

knife blades (other than those designed for domestic use);

swords;

any other article—

(i) which has a blade; or

(ii) which is sharply pointed,

and which is made or adapted for use for causing injury to the person.

Exceptions

The Scottish Government has made some specific exceptions to this requirement.

- it is not necessary to obtain a licence to sell folding pocket knives, kirpans and skean dhus - providing that in all cases the blade does not exceed 3.5 inches (8.91 centimetres) in length [The Knife Dealers (Exceptions) Order 2009]

[This reflects the current law on carrying folding pocket knives in public, which provides a specific exemption for penknives and similar small items and provides defences in law for knives carried for religious reasons or as part of national costume.]

The legislation does not define how the length of the blade should be measured however dealers in knives are advised to assume that all parts of the blade that protrude beyond the handle, including any unsharpened parts are included.

Dealers who wish to sell larger versions of these knives will require a licence.

- In addition there is no need to obtain a licence to sell axes or razor blades

Important note; the sale of axes and some types of razor blades to people under the age of 18 is forbidden and the sale of folding pocket knives to people under 18 is forbidden unless the length of the blade is less than 3 inches (not 3.5 inches as in the licensing requirement). (see also below)

- Businesses dealing in knives etc. only for customers who are professionals or in business (i.e. Business to Business) do not require dealer's licences.
- Professionals qualified to teach or train fencing do not require licences to hire lend or give fencing weapons to their students.

Further exceptions have been provided by the Knife Dealer's Licence (Miscellaneous) (Scotland) Order 2010. This has provisions that affects articles used in some circumstances in the sports of archery, fencing and certain water sports.

A dealer in knives should consider approaching their local licensing authority to determine if a licence is necessary in their particular circumstances.

If a licence is necessary, there are some standard conditions set by the Scottish Government that will apply to all licences:

- The dealer must make detailed written records of the following on the day of the transaction and retain them for 3 years
 - The identity of the customer and the means by which the customer's identity was verified
 - The steps taken to establish that the customer was at least eighteen years of age at the time of the transaction (including any proof of age or identity sought or the means by which the customer's age was verified or reasons why such verification was not sought because it was unnecessary)
 - A full description of the article sold, hired, offered or exposed for sale or hire, lent or given to the customer
- The dealer must ensure that any article listed on section 27A(2) of the Civic Government (Scotland) Act 1982 or display of such articles is not visible from the street or any public entrance to the premises
- The dealer must at all times display a notice at the point of entry to the premises, the point of sale or counter and in a position which is readily visible to customers, be at least A4 size and which the lettering must be legible and no smaller than 5 mm in height and contain the following wording:

It is an offence to sell to a person under the age of 18 any knife or knife blade (except if the person is aged 16 or over and the knife or blade is designed for domestic use);

It is also an offence to sell to a person under the age of 18 any razor blade, axe, sword or other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury; and

A customer may be asked to provide details of his/her age and identity (which may be recorded or copied and kept for inspection for up to 3 years).

Additional conditions for dealers in swords

Where a business is dealing in swords the following additional standard conditions will apply:

- The dealer must take all reasonable steps to establish from the customer and confirm the intended use of any sword
- The dealer must make detailed written records on the day of the transaction of the enquiries made of the customer or other persons or bodies as to the intended use of any sword and retain these records for a period of 3 years

N.B. As well as the standard conditions above, the individual licensing authority has the power to place additional conditions on the licence at their discretion.

Where a dealer has multiple premises within a the boundaries of a single licensing authority, it will be up to that licensing authority to determine whether all the premises can be covered by a single licence or if separate licences are required for each.

6. Distance Sale of knives

A licence is also required for a dealer who sells knives by distance means (catalogues, internet, mail order etc) as follows:

- where the place where the order is taken is in Scotland
- where the order is itself taken outside Scotland but the goods are despatched from within Scotland (as the sale will be treated as having taken place within Scotland)

Where a business involved in distance sales has both the place at which it takes its orders and the place from which it despatches the goods within Scotland but the two premises lie within different local authorities, the sale is treated as taking place at **both** premises and each will require its own licence.

7. Penalties in Relation to Knife Dealer's Licences

Anybody who does anything for which a knife dealer's licence would be required but who does not hold a licence risks imprisonment for up to two years and/or an unlimited fine. To avoid conviction such a person would have to demonstrate that they had a reasonable excuse.

8. Sale of Knives to Young Persons

It is illegal to sell many knives to people under the age of 18.

The Criminal Justice Act 1988, as amended by the Criminal Justice Act 1988 (Offensive Weapons Act) (Scotland) Order 2005 and the Police, Public Order and Criminal Justice (Scotland) Act 2006, makes it illegal to sell the following items to anyone under the age of eighteen:

- Any knife, knife blade or razor blade.
- Any axe.
- Any article which has a blade or which is sharply pointed, and which is made or adapted for causing injury to the person

However you do not have to be eighteen to buy:

- Folding pocket knives with a blade of less than 3 inches (7.62cm)*

- razor blades permanently held in a cartridge or similar housing, where less than 2mm of the blade is exposed

(*NB this is smaller than the exemption from needing a licence which is 3.5 inches)

9. Special Provision for 16 – 18 year olds

In addition, people between the ages of 16 and 18 can also buy knives and knife blades, if the knife or blade is designed for domestic use (see above).

10. Penalties for Selling to Young People

Anybody selling a knife to somebody below the minimum legal age risk imprisonment for up to six months and/or a fine of up to £5000 unless he can show that he took all reasonable precautions and exercised all due diligence to avoid doing so. Past court cases have shown that this means having a system in place and then operating that system consistently.

Retailers will want to consider what steps are appropriate taking into account the way in which their business operates, the nature of the products that they sell and how frequently. A range of techniques has developed over the years to avoid underage sales.

This includes; having documented policies and staff training, appropriate signage to warn customers (and staff), prompts that alert operators when restricted products are presented at tills, restricting the range of accepted ways of proving age to ensure they both establish the age and match the identity of the purchaser (e.g. only accepting national ID cards, passports, photo ID driving licences and “PASS” approved proof of age cards), challenging everyone that appears to be below a specific age (e.g. 21) to prove their age and recording all instances of refusals to show the system is being operated.

This is not meant to be an exhaustive list and not all these techniques will necessarily be appropriate for all retailers

11. Proxy selling

LACORS have also recognised that a sale to someone buying on behalf of someone that is too young to make the purchase themselves, or so-called proxy selling, is not illegal. This reflects the fact that many young people have perfectly legitimate need for the use of knives and knife blades but, because of the prohibitions described above, cannot purchase them for themselves and have to rely on adults such as parents and guardians to purchase them on their behalf.

Individual retailers may wish to adopt their own policies on where it might be appropriate to allow such a sale to proceed.

SUMMARY TABLE

Knives etc. that may be sold to people of any age and with no need for a dealer's licence

- Folding pocket knives with a blade of up to 3 inches (7.62cm)
- razor blades permanently held in a cartridge or similar housing, where less than 2mm of the blade is exposed
- Skewers
- Screw drivers
- Scissors
- Pruning saws
- Plasterboard saws
- Peelers

Articles that may only be sold to 18 year old's and older but with no need for a dealer's licence

- axes
- razor blades (other than above)

Domestic knives that may be sold to those over 16 and not requiring a dealer's licence (non exhaustive list with typical examples and subject to specific manner of marketing)

- Table cutlery and food preparation knives including picnic and similar travel equipment
- Health and Beauty or personal care products such as callous knives and manicure sets including travel kits
- DIY and decorating knives and their replacement blades including retractable and snap bladed knives, window and similar scrapers and wallpaper knives
- Craft and hobby knives including sewing, knitting and associated haberdashery products
- Gardening knives
- Automotive and cycling maintenance products

Other Knives not requiring a dealer's licence

- Folding pocket knives with blades of between 3 inches (7.62cm) and 3.5 (8.91 cm)
- Kirpans and skean dhus with blades of up to 3.5 inches (8.91 centimetres)

Absolutely banned

- Flick-knives, gravity knives, belt buckle knives
- Stealth knives and disguised knives
- Swordsticks containing a blade
- Push daggers, butterfly knives
- Kyotetsu shoge (a rope, cord or chain fastened to a hooked knife)
- Hand and foot claws, hollow kybatan with spikes, shuriken or death star
- Kusari gam (a rope, cord, wire or chain fastened at one end to a sickle)
- Combat knives