

THE OFFENSIVE WEAPONS (PROHIBITION) ACT

Act
16 of 2001.

[18th June, 2001.]

1. This Act may be cited as the Offensive Weapons (Prohibition) Act. Short title.

2.—(1) In this Act—

Interpreta-
tion.

"ballistic knife" means a device or instrument designed or adapted to fire or discharge a knife, dagger or similar instrument by mechanical, percussive or explosive means;

"butterfly knife" means a knife with a two-piece handle which folds together to cover both edges of the blade (where the blade is not serrated and exceeds seven centimetres in length);

"dagger" means a sharp pointed stabbing instrument, ordinarily capable of being concealed on the person and having—

(a) a flat blade, exceeding eight centimetres in length, with cutting edges (whether or not serrated) along the length of both sides;

(b) a needle-like blade, the cross-section of which is elliptical or has three or more sides,

but does not include instruments such as swords or bayonets;

"flick knife" means a knife designed or adapted so that the blade is concealed when folded or recessed into the handle and which opens by gravity or centrifugal force or by any pressure applied to a button, spring or device in or attached to the handle of the knife;

OFFENSIVE WEAPONS (PROHIBITION)

"knuckleduster" means a device or instrument designed or adapted to be worn across a knuckle or knuckles of the hand, finger, fingers or thumb so as to—

- (a) increase the force or impact of a punch or blow when striking another with that hand, finger, fingers or thumb; or
- (b) protect the knuckle or knuckles from injury when striking another with that hand, finger, fingers or thumb;

"knuckle knife" means an open or exposed blade or similar instrument attached to a handle that is designed or adapted to be held between the knuckles (including the device commonly known as the "Urban Pal Knife");

"offensive weapon" means—

- (a) any article made or adapted for use for causing injury to the person or which is intended by the person having such article with him to cause such injury;
- (b) any dagger; or
- (c) any swordstick, ballistic knife, butterfly knife, flick knife, knuckleduster, knuckle knife or any knife which is commonly known as a switchblade, ratchet knife or rambo knife, or such other knife as the Minister may prescribe by order subject to affirmative resolution;

"public place" includes—

- (a) every highway, road or other passageway, court, parade, wharf, school premises, public garden, open space or any place used for the purposes of sports and games; and
- (b) any other place or premises to which, at the material time, the public has access, whether on payment or otherwise;

"swordstick" means a cane, stick or similar article designed or adapted to hold the blade of a sword so that it is concealed from view until withdrawn from the cane, stick or article.

(2) Paragraph (a) of the definition of "offensive weapon" in subsection (1) does not include any of the following substances that a person has with him for personal protection, namely—

- (a) mace or pepper spray;
- (b) such other substance as the Minister may prescribe by order subject to affirmative resolution.

3.—(1) A person shall not, without lawful authority or reasonable excuse, knowingly have with him in any public place any offensive weapon falling within paragraph (a) or (b) of the definition of "offensive weapon".

Offence of carrying an offensive weapon in a public place.

(2) A person shall not knowingly have in his possession in any public place, any offensive weapon falling within paragraph (c) of the definition of "offensive weapon".

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding four thousand dollars and in default of payment to imprisonment for a term not exceeding four months.

(4) It shall be a defence for a person charged with an offence under subsection (1) to prove that he had the article with him for the purposes of any lawful sport or the person's lawful trade, business or occupation.

(5) A constable shall—

- (a) seize any offensive weapon referred to in subsection (2) which is found in the possession of any person in contravention of that subsection;

OFFENSIVE WEAPONS (PROHIBITION)

- (b) seize any other offensive weapon in respect of which he has reasonable cause to believe an offence has been committed under this section,

and that weapon shall be detained by the constable until such time as any legal proceedings in respect of the offence are finally disposed of.

(6) Where any person is convicted of an offence under subsection (1) or (2) the Court may upon the application of the prosecution make an order for the forfeiture of any offensive weapon used in the commission of the offence.

(7) A conviction under this section shall not form part of the criminal record of the person convicted.

Procedure
upon for-
feiture of
offensive
weapon.

4.—(1) Where the prosecution proposes to apply for forfeiture of any offensive weapon under section 3 (6), notice of such intention and of the grounds therefor shall be given forthwith to any person who, to the knowledge of the prosecution, is the owner thereof:

Provided that notice shall not be required to be given under this subsection if the seizure was made in the presence of the owner of the offensive weapon seized.

(2) Without prejudice to any other form of service, notification may, for the purpose of subsection (1), be made by two publications in a daily newspaper printed and circulating in Jamaica, the second of such publications being not later than three days after the first.

(3) Any person having a claim to any offensive weapon in respect of which an application for forfeiture is made pursuant to section 3 (6) may appear before the Court on the hearing of the application and show cause why an order for forfeiture should not be made.

(4) Where, on hearing of an application pursuant to section 3 (6) for forfeiture of any offensive weapon, no person appears before the Court to show cause why an order for forfeiture should not be made, the Court shall presume that such weapon has been abandoned.

(5) If, upon the application of any person aggrieved by an order made by the Court under section 3 (6), the Court is satisfied that it is just to revoke such order, the Court may revoke that order upon such terms and conditions as it deems appropriate, and, without prejudice to the generality of the foregoing, shall require the person to pay, in respect of storage, maintenance, administrative expenses, security and insurance of the offensive weapon, such charges as shall be approved by the Court.

(6) An application to the Court under subsection (5) for the revocation of an order shall be made within thirty days of the date of the order or within such greater time, not exceeding three months after the date of the order, as the Court may allow.

5.—(1) A constable may, in any public place, upon showing his proper identification as a constable, search without a warrant—

Power to search and arrest without warrant.

- (a) any person whom he has reasonable cause to believe to be in possession of any offensive weapon in contravention of section 3 or anything carried by such person;
- (b) any vehicle, its driver and any passenger if he has reasonable cause to suspect that an offensive weapon is to be found in any such vehicle or on such driver or passenger in contravention of section 3.

(2) If, in the course of any search carried out pursuant to subsection (1), an offence under section 3 appears to have been committed—

- (a) the constable shall seize any offensive weapon found in the course of such search;
- (b) the person shall give his true name and address to the constable when requested to do so;
- (c) if the person fails to give his name and address the constable may, without a warrant, arrest that person.

6. The Minister may make regulations generally for giving effect to the provisions of this Act and all such regulations shall be subject to affirmative resolution.

Regulations.