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### 1. Introduction

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#### 1.1 Scope of this guidance

Our books of guidance are the main reference material for people in the Department. All HM Revenue and Customs (HMRC) formal procedures and work systems are outlined in these books, which give managers and staff the Department's rules, guidance and general advice on interpreting them.

The guidance is aimed at HMRC staff and should not be relied upon by importers in their liability to obtain import licences and permits.

This book of guidance covers guidance on the import prohibitions on offensive weapons, including knives, and the procedures for dealing with detected importations and outlines the controls and explains the procedures to be followed. The procedures should also be followed if you detect imported prohibited offensive weapons at outward bound controls.

**Please note: The use of 'must' in this guidance indicates mandatory checks or actions.**

#### 1.2 Release of information: Freedom of Information Act

In this book of guidance the information detailed in **section 5 or as detailed** is exempt from release under the Freedom of Information Act and must not be released to the public. It has been withheld because disclosure would prejudice operational procedures and assist in the avoidance of operational controls. All other information contained in this guidance may be released on request.

This book of guidance should be read in conjunction with the **Other reference and further reading** section of the guidance.

#### 1.3 Background

HMRC plays a major role in the protection of society from the dangers posed by offensive weapons by enforcement of the UK prohibition on their importation. Prohibited offensive weapons are goods designed to kill or inflict serious injury for which there is no or very limited legitimate use to which they can be put by a member of the public.

Our core objective is, through the detection of prohibited items, to prevent the illegal importation of prohibited weapons and to prosecute serious offenders.

HMRC priorities are the:

- detection and seizure of prohibited items carried on the person, in accompanied baggage and in postal/fast parcel imports;
- targeting commercial importations of militaria, survival, camping, outward-bound type materials and similar goods which may include offensive weapons; and
- passing of intelligence gained to other authorities for consideration of further action.

### 1.4 Law and regulations

The prohibition on the importation of offensive weapons is established by the following legislation:

- the Restriction of Offensive Weapons Acts 1959 to 1961; the importation of any such knife as described is hereby prohibited
- the Criminal Justice Act 1988 (Offensive Weapons) Order 1988, 2002 and 2004; Section 141(4) states: "The importation of a weapon to which this section applies is hereby prohibited."

Section 49(1)(b) of the of Customs and Excise Management Act 1979 (CEMA) makes the goods liable to forfeiture for a breach of the Restriction of Offensive Weapons Acts 1959 or Section 141(4) of the CJA "where –any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment;"

Section 139(1) of CEMA gives HM Revenue and Customs and UK Border Agency (UKBA) officers undertaking Customs functions the power of seizure as it states "Any thing liable to forfeiture under the customs and excise Acts may be seized..."

Offence action can be taken under sections 50, 167 and 170(2) for those knowingly concerned in evading the import prohibition.

### 1.5 Extent of prohibition

Prohibited offensive weapons may not be imported into the UK from either an EU or non-EU country. All prohibited offensive weapons are the subject to seizure.

### 1.6 Roles and Responsibilities

HMRC Prohibitions and Restrictions Border Policy Group is responsible for:

- formulating policy and procedures for administration of the controls on offensive weapons and issuing guidance therein;
- consulting and liaison with inter departmental stakeholders on the above;
- consulting and liaison with other government departments, and
- providing assurance data as required on seizures.

The Prohibitions and Restrictions Border Policy Group are located at:

Room LG69  
100, Parliament Street  
City of Westminster  
London SW1A 2BQ  
Tel: 0207 147 0583  
Fax: 0207 147 0131.

### **Responsibility of the Regions and Detection**

The Regions and Detection are responsible for enforcing the UK prohibition on the import of offensive weapons by operating selective, risk-based anti-smuggling checks on both intra-EU and third country movements of passengers and their baggage, crew members, freight, postal packages, and means of transport. They will:

- allocate sufficient resources to administer the controls on licit importations of firearms;
- operate controls in such a way as to maximize the detection of irregularities;
- devise control procedures to detect illicit imports of firearms;
- obtain relevant assurance and management information on seizures of offensive weapons;
- influence policy, training and operational issues; and
- ensuring appropriate training is available to anti-smuggling staff.

### **Responsibility of the Home Office**

The Home Office is responsible for reflecting Government policy on offensive weapons by determining and tabling legislation creating powers of enforcement in consultation with HMRC who administer the import controls on its behalf.

The Home Office Division referred to in this book is:

Specialist Crime (SC1)  
(Public Order and Police Cooperation)  
5<sup>th</sup> Floor  
Fry Building  
2, Marsham Street  
London SW1P 4DF

**Role of the Intelligence Division (HMRC)**

Intelligence is responsible for co-ordinating all departmental intelligence activities and systems. Within Intelligence the NIU Customs provides strategic threat assessments and briefings in response to customers' needs and maintains strategic awareness of risks and threats across all the Department's business areas.

## 2. Scope of offensive weapons controls

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### 2.1 The Restriction of Offensive Weapons Act 1959-1961 prohibit the possession and importation of:

- **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
- **any knife** which has a blade which is released from the handle or sheath thereof 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**”.

### 2.2 The Criminal Justice Act 1988 (Offensive Weapons) Orders 1988, 2002 and 2004 prohibit the possession and importation of:

- a **knuckleduster**: a band of metal or other hard material worn on one or more fingers, and designed to cause injury and any weapon incorporating a knuckleduster;
- a **swordstick**: a hollow walking stick or cane containing a blade which may be used as a sword;
- the weapon sometimes known as a “**handclaw**”, being a band of metal or other hard material from which a number of sharp spikes protrude, worn around the hand;
- the weapon sometimes known as a “**belt buckle knife**”, being a buckle which incorporates or conceals a knife;
- the weapon sometimes known as a “**push dagger**”, being a knife with a handle that fits within a clenched fist and a blade that protrudes between two fingers;
- the weapon sometimes known as a “**hollow Kubota**”, being a cylindrical container holding a number of sharp spikes;
- the weapon sometimes known as a “**foot claw**”, being a bar of metal or other hard material from which a number of sharp spikes protrude, worn strapped to the foot;
- the weapon sometimes known as a “**shuriken**”, “shaken” or “**death star**”, being a hard non-flexible plate having three or more sharp radiating points, designed to be thrown;
- the weapon sometimes known as a “**balisong**” or “**butterfly knife**”, being a blade enclosed by a handle which is designed to split down the middle, without the operation of a spring or other mechanical means, to reveal the blade;

- the weapon sometimes known as a “**telescopic truncheon**”, being a truncheon designed to extend automatically or by hand pressure applied to a button spring or other device attached to its handle;
- the weapon sometimes known as a “**blowpipe**” or “**blow gun**”, being a hollow tube through which darts or hard pellets are propelled by the use of breath;
- the weapon sometimes known as a “**kusari gama**”, being a length of rope, cord, wire or chain fastened at one end to a sickle;
- the weapon sometimes known as a “**kyoketsu shoge**”, being a length of rope, cord, wire or chain fastened at one end to a hooked knife;
- the weapon sometimes known as a “**manrikigusari**” or “**kusari**”, being a length of rope, cord, wire or chain fastened at each end to a hard weight or hand grip;
- a **disguised knife**, that is any knife which has a concealed blade or concealed sharp point and is designed to appear to be an everyday object of a kind commonly carried on the person or in a handbag, briefcase, or other hand luggage (such as a comb, brush, writing instrument, cigarette lighter, key, lipstick or telephone);
- a **stealth knife**, that is a knife or spike, which has a blade, or sharp point, made from a material that is not readily detectable by apparatus used for detecting metal and which is not designed for domestic use or for use in the processing, preparation or consumption of food or as a toy;
- a straight, side-handled or friction-lock **truncheon** (sometimes known as a **baton**);
- a sword with a curved blade of 50cms or over in length; the length of the blade shall be the straight line distance from the top of the handle to the tip of the blade.

### **Defences for all weapons set out in The Criminal Justice Act 1988 as amended are:**

- for the purposes only of functions carried out on behalf of
- the Crown
- a visiting force
- for the purposes only of making it available to a museum or gallery which does not distribute profits

- the purposes of theatrical performances and of rehearsals for such performances;
- the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 – see section 5B of that Act);
- the production of television programmes (within the meaning of the Communications Act 2003 – see section 405(1) of that Act);

### **Additional defences for curved blade swords 50cms or over in length:**

- the weapon in question was made before 1954 or was made at any other time according to methods of making swords by hand;
- for the purpose of use in religious ceremonies
- for the purpose only of making the weapon available for the purpose of the organisation and holding of a permitted activity for which public liability insurance is held in relation to liabilities to third parties arising from or in connection with the organisation and holding of such an activity;
- “permitted activity” means an historical re-enactment or a sporting activity;
- “historical re-enactment” means any presentation or other event held for the purpose of re-enacting an event from the past or of illustrating conduct from a particular period in the past;
- “sporting activity” means the practising of a sport (martial arts) which requires the use of a sword with a curved blade of 50 centimetres or over in length;
- “insurance” means a contract of insurance or other arrangement made for the purpose of indemnifying a person or persons named in the contract or under the arrangement;
- “third parties” includes participants in, and spectators of, a permitted activity and members of the public or

Evidence to support any defences should be provided to UKBA by the importer at the time of import. Types of evidence may include membership of a martial arts club or re-enactors club, confirmation that a TV, film or theatrical performance is taking place, or venue details and dates of a wedding etc.

There are no such defences for Flick or Gravity Knives controlled under the Restriction of Offensive Weapons Act 1959.

Further information on defences can be obtained from the Offensive Weapons section of the Home Office Public Order Unit 020 7035 1807



Visual examples of some offensive weapons are provided for in the **Reference documents and further reading section** of this guidance.

### 2.3 Seizure of offensive weapons

The above items are ALL subject to seizure if you detect them or they are declared to you. Seized items may not be offered for restoration unless they are to be restored for a permitted purpose listed in Section 3.4.

### 2.4 Antique weapons

Offensive weapons, other than flick knives, flick guns and gravity knives covered by the above list in 2.1 or 2.2 may be imported if they are over one hundred years old. Evidence from a reputable supplier is usually sufficient. If this is not available, evidence from a recognised antique authority in the form of a Certificate of Antiquity should be supplied.

### 2.5 Lock knives

A lock knife is a knife with a blade that folds into the handle, is manually opened and locked in place. Lock knives are not prohibited weapons. However, some lock knives are capable of being opened by making use of centrifugal force provided by a double-action of the wrist and therefore fall within the definition of a gravity knife as detailed in section 2.1 and are therefore to be seized.

### 2.6 Crossbows

There is no prohibition governing the importation of crossbows. However, under the Crossbows Act 1987, persons under the age of 17 can possess a crossbow **only** under the direct supervision of a person over 21. The police should be informed if any unsupervised person under the age of 17 is found importing a crossbow.

### 2.7 Swords, bayonets, machetes, axes etc

There is no across the board prohibition on the importation of straight bladed swords, bayonets, machetes, axes, hatchets, tomahawks, throwing knives or replica medieval weaponry such as spears, lances, pikes, maces, caltrops, and halberds. These weapons would, however, be regulated under the Prevention of Crime Act 1953 and the Criminal Justice Act 1988 which prohibit the carrying of such weapons in a public place without lawful authority or reasonable excuse. Swords, however, disguised as another object, may fall within the definition of a **sword stick** which is a prohibited offensive weapon and this should be seized. There are also controls on the import of curved blade swords where the blade is 50cms or over as per paragraph 2.2 above.

### 2.8 Blowpipes and blow guns

Section 141(2) of the Criminal Justice Act 1988 provides that any weapon specified in the Offensive Weapons Orders shall not apply to any weapon subject to the Firearms Act 1968. Blowpipes used for the discharge of tranquilliser darts can be held legitimately by veterinary surgeons and registered animal handlers under an authority issued by the Home Office under Section 5 (1) and (c) of the Firearms Act 1968. Such blowpipes and darts may be imported against a Specific Import Licence issued by the Department of Trade and Industry. If you find a blowpipe and darts together without a licence you should treat the blowpipe as a firearm under Section 5 (1) and (c) of the Firearms Act 1968.

Many blowpipes are produced for the tourist trade as souvenirs and are often ornately carved or decorated. If, despite an item having the characteristics of a blowpipe, you are satisfied that it has been constructed or to be used as a decorative ornamental curio and is incapable of inflicting injury as a blowpipe, you may allow the item to be imported. If not the item(s) must be seized.

### **3. HMRC Enforcement Policy**

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#### **3.1 General**

HMRC enforce the prohibition on the importation of offensive weapons as defined in The Restriction of Offensive Weapons Act 1959-1961 and The Criminal Justice Act 1988 (Offensive Weapons) Orders 1988, 2002 and 2004.

All HMRC staff have responsibility for dealing with all illegal imports wherever detected in the course of their multi functional or anti smuggling duties.

All detections are to be followed up with appropriate action, e.g. seizure, investigation, prosecution and /or handling of appeals.

#### **3.2 Appeals and complaints**

Appeals are to be dealt with as detailed and in accordance with normal procedures as will complaints. Please refer to Notice 100A.

#### **3.3 Non-prohibited offensive weapons**

If, in the course of inward/outward bound anti-smuggling checks, you discover a non-prohibited offensive weapon in the possession of a person for which they have no good reason for possessing and you have reasonable grounds for suspecting that they intend it to be used in violent behaviour, the weapon is to be seized under the Police and Criminal Evidence Act 1984 (PACE), section 19 and Police follow-up action requested.

If you find such weapons in freight or post in commercial quantities addressed to a private individual you should liaise with intelligence and consider sending a 5x5x5 to the local police force of the importer. If the importer is within the Metropolitan or Home Counties police areas forward the details to Micky Doyle or Dave Cook for 5x5x5 action.

#### **3.4 Permitted importations**

The Criminal Justice Act 1988 provides for offensive weapons to be held by a limited number of organisations for specified purposes. Offensive weapons should not be seized when imported in the following circumstances:-

##### **3.4.1 Permitted imports by Visiting Forces**

Offensive weapons imported by a body, contingent or detachment of a visiting force provided the weapons are the property of a visiting force. Privately possessed offensive weapons should be seized where no evidence is produced confirming that it is an official issued weapon.

##### **3.4.2 Permitted imports by HM Forces**

Offensive weapons owned by HM Forces. Privately possessed offensive weapons should be seized where no evidence is produced confirming that it is an official issued weapon.

### 3.4.3 Permitted imports by or on behalf of Government Departments and the police

- (a) Direct imports of batons and truncheons by UK civilian and military police forces and the prison service.
- (b) Imports by commercial concerns for onward supply to the police or prison service provided that:
  - evidence is produced showing that the batons or truncheons are being imported solely for the purpose of making a supply to a UK police force, prison service or for the MoD; and
  - where the quantities shown are in excess of that shown in a contract to supply they are solely for the purpose of stockholding to enable emergency supplies to be made or for replacing broken items; and
  - reference or trade samples are being imported solely for evaluation purposes in anticipation of making a supply to the police, prison service or MoD.

Batons and truncheons may not be imported for the purposes of making a supply abroad or for stockholding prior to making a supply abroad. Such items must be shipped direct from the overseas supplier to the customer abroad although they may be transhipped, as there is no UK export or transshipment prohibition.

### 3.4.4 Permitted imports by museums and similar institutions

Imports by museums and similar institutions such as galleries and universities for the purposes of presentation, display, research and interpretation of material of historical, artistic or scientific interest. Such imports may also qualify for relief from duty and VAT under the provisions of R6-1, Section 7 (The Community System of Duty Relief's, Exhibitions for Museums and Galleries).

### 3.4.5 Section 43 of the Violent Crime Reduction Act 2006 which came into force 1<sup>st</sup> October 2007 provided the following defences for all offensive weapons:

It shall be a defence for a person charged in respect of conduct of his relating to a weapon listed in Section 141 of the CJA 1988 to show that his conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified

Those purposes are—

- the purposes of theatrical performances and of rehearsals for such performances;

- the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 – see section 5B of that Act);
- the production of television programmes (within the meaning of the Communications Act 2003 – see section 405(1) of that Act).
- to show that his conduct was only for the purposes of functions carried out on behalf of the Crown or of a visiting force.
- to show that the conduct in question was only for the purposes of making the weapon available to a museum or gallery to which this subsection applies
- If a person acting on behalf of a museum or gallery is charged with hiring or lending a weapon to which this section applies, it shall be a defence for him to show that he had reasonable grounds for believing that the person to whom he lent or hired it would use it only for cultural, artistic or educational purposes.

The defence in section 141(11A) of the Criminal Justice Act 1988 as amended by Section 43 of the Violent Crime Reduction Act 2006 does not apply for conduct taking place before 1<sup>st</sup> October 2007.

### 3.4.6 Permitted imports of Curved Blade Swords 50cms or over in length

On 6th April 2008 Statutory Instrument (SI) 973/2008 amended the Schedule to Section 141 of the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 as amended (CJA) to include “a sword with a curved blade of 50 centimetres or over in length”. This SI and SI 2039/2008 allowed importers to claim the following defences:

- the weapon in question was made before 1954 or was made at any other time according to methods of making swords by hand.
- for the purpose only of making the weapon available for the purpose of the organisation and holding of a **permitted activity** for which public liability **insurance** is held in relation to liabilities to **third parties** arising from or in connection with the organisation and holding of such an activity.
- “**permitted activity**” means an historical re-enactment or a sporting activity.

- “**historical re-enactment**” means any presentation or other event held for the purpose of re-enacting an event from the past or of illustrating conduct from a particular period in the past.
- “**sporting activity**” means the practising of a sport (martial arts) which requires the use of a sword with a curved blade of 50 centimetres or over in length...
- “**insurance**” means a contract of insurance or other arrangement made for the purpose of indemnifying a person or persons named in the contract or under the arrangement
- “**third parties**” includes participants in, and spectators of, a permitted activity and members of the public.
- for the purpose of use in **religious ceremonies**

3.4.7 How to deal with imported Curved Blade Swords sometimes described as Samurai Swords with a blade length of 50cms or more:

**Commercial** (a UK company) imports of curved blade swords 50cms or over in length need not supply any information regarding defences as the control will be for the police at the point of sale. This will be to ensure that the retailer is only selling to an individual with a bona fide defence.

**Individual private imports** will need to meet one of the defences in order to import a curved blade sword 50cms or over in length. Documentation evidencing one of the defences should be requested. Where defences cannot be evidenced the sword should be seized and not offered for restoration.

We will accept that curved blade swords 50cms or over in length were made before 1954 or made at any other time according to methods of making swords by hand if evidence of such is supplied albeit from a website or invoice until such times as the Home Office provides the expert advice and value required to support seizure and non-restoration.

We have had a number of appeals and an MP letter relating to seizure and non-restoration where the Home Office cannot at this moment provide us expert representation. This means that we are likely to lose any potential Tribunals. The Home Office are also unable to provide us with the type of information/evidence that we will require, such as the value, to prove that these swords are hand made by traditional methods. In the absence of supporting evidence we have no option but to release.

### **3.5 Offensive weapons in transit**

The offensive weapons listed in section 2.1 and 2.2 are not subject to UK export or transshipment prohibition. However, very fact of arrival in the UK, regardless of the final destination, is such that the goods have potentially been rendered liable to forfeiture, even if the country of final destination is another EU Member State where the weapons are not subject to control.

### **3.6 Offensive weapons carried by passengers aboard aircraft or ships**

The Aviation Security Act 1982 (ASA) and the Aviation and Maritime Security Act 1990 (AMSA) prohibit or restrict the circumstances in which a passenger is allowed to have with them a wide range of items at a port or airport or to carry such items on to a ship or aircraft. The appointed carrier or air/sea port security staffs are responsible for carrying out passenger and baggage security searches under AMSA. Security staff should be instructed to inform HMRC when they detect an imported item known to be subject to a prohibition.

### **3.7 Offensive weapons found on board a vessel**

You should seize any offensive weapon found during a rummage of a vessel, irrespective of whether ownership is not known or identified as the property of a crewmember.

### **3.8 Offensive weapons which have been carried on an aircraft by a passenger**

You should seize any offensive weapon that has been carried on an aircraft by a passenger as part of their cabin baggage.

You may permit offensive weapons that have been handed over to the airline for secured storage at the start of the passenger's journey (outside of the UK), and remain under the control of the carrier until the final leg of the journey is complete, unless the journey is completed within the UK in which case the item should be seized.

### **3.9 Carrying of knives in a public place**

Section 1 of the Prevention of Crime Act 1953 makes it an offence for a person to have an offensive weapon in a public place without reasonable excuse or lawful authority. An offensive weapon is defined as any article, which is made, adapted, or intended to cause injury.

Under the Criminal Justice Act 1988, section 139, it is an offence to have in a public place without good reason or lawful authority, any article which has a blade or is sharply pointed, unless the article is a pocket-knife whose blade does not exceed 3 inches. In Scotland this provision is enacted by the Carrying of Knives (Scotland) Act 1994.

These provisions do not affect the position on importation of knives and similar articles, which may be imported, provided they do not fall under one of the categories listed in section 2.1 and 2.2.

**4. Health and Safety**

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Officers must take particular care in relation to the health and safety risks associated with handling offensive weapons and the potential injury of finding concealed offensive weapons.

H & S risk assessments should be produced and up dated by operational units to minimise the risk of injury. Standard questions are to be used before the search of person or baggage to identify any offensive weapons or other items that may give rise to any injury to the person.

Any Personal Protective Equipment (PPE) worn and used for such activities should be disposed of in the same way as Category 1 waste.



**5. Operational Procedures**

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*This area of the guidance has been withheld because disclosure would prejudice operational procedures and assist in the avoidance of statutory controls.*