

Home Office consultation on the new knife legislation proposals to tackle the use of machetes and other bladed articles in crime

Response to be sent to machetes-knives-consultation@homeoffice.gov.uk by 6 June 2023.

This response is being sent on behalf of The Chartered Trading Standards Institute and has been compiled by the expertise of CTSI members.

ABOUT CTSI

Founded in 1881 (as the 'Incorporated Society of Inspectors of Weights and Measures'), today's Chartered Trading Standards Institute (CTSI) is one of the world's longest-established organisations dedicated to the field of Trading Standards and Consumer Protection. And, after more than 140 years of progress, we remain immensely proud of our close association with the Trading Standards profession and the vital work it continues to do – promoting fair business practices, tackling rogue traders and, ultimately, protecting UK consumers.

At CTSI and through the trading standards profession we aim to promote good trading practices and to protect consumers. We strive to foster a strong vibrant economy by safeguarding the health, safety and wellbeing of citizens through empowering consumers, encouraging honest business, and targeting rogue practices.

We provide information, guidance and evidence-based policy advice to support local and national stakeholders including central and devolved governments. CTSI is responsible for business advice and education in the area of trading standards and consumer protection legislation, including running the Business Companion service to provide clear guidance to businesses on how to meet their legal and regulatory obligations. CTSI is also responsible for the Consumer Codes Approval Scheme which facilitates high principles of assisted self-regulation through strict codes of trading practice. This ensures consumers can have confidence when they buy from members of an approved scheme and also raises the standards of trading of all businesses that operate under the relevant sector's approved code.

We run training and development events for both the trading standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement

CONSULTATION RESPONSE

Proposal one: Introduction of a targeted ban of certain types of large knives that seem to be designed to look menacing with no practical purpose.

This proposal will have the largest impact on Trading Standards, as the consequence of adding “zombie style knives and machetes” and “combat and fantasy style knives and machetes” to the list

of prohibited offensive weapons in Schedule 1 of the Criminal Justice Act 1988 (Offensive Weapons). Order 1988 is that it would no longer be possible to manufacture, sell, import or possess these weapons, even in private. TS would be responsible for the "sale" aspects. HM Customs & Revenue would deal with importation offences, but TS may have occasion to identify such products as part of import surveillance, requiring referrals.

The Govt states they are not proposing to ban machetes that have legitimate agricultural or other purposes, but would be interested in views from respondents on the extent to which machetes and other large knives do still have a practical use in the UK. From my perspective, in relation to London, there will be few non-commercial reasons for anyone to possess these items if they do not reside in a property with a large garden in need of extensive maintenance. This would presumably be applicable to the other large metropolitan areas in the UK. Colleagues in large County areas, with significant agricultural activity will no doubt have further views as to the need for such items to be available to the general public. However, if you live in a flat in Croydon and are not a landscape gardener you really have no genuine reason to own a knife/machete with a blade longer than a penknife.

I would add that existing controls exist under the Knives Act 1997 in relation to making it an offence to market a knife and also an offence to publish marketing material in relation to a knife in a way that either: • indicates or suggests that it is suitable for combat (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) or • is otherwise likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon. Some of the examples given in the consultation (large "Fantasy hunting knife" etc.) could potentially fall foul of this existing restriction, which is enforced by TS. The proposals therefore need to ensure that any changes fit cohesively with the Knives Act provisions. Effectively anything deemed to be a zombie knife or zombie style/combat and fantasy style knife should automatically be deemed to breach Section 1 of the Knives Act 1997.

The consultation makes it clear that there is no set list of what would be and what would not be deemed to fall within the new definitions of these knife types proposed to add to Sc.1. This will inevitably lead to some contradiction and challenge as enforcement will not initially be consistent. Legal precedents arising from Court proceedings will over time resolve this.

However, it would be helpful if the Home Office could provide an initial view of what existing products would NOT fall foul of the new restrictions.

The Government asks as to views on whether it would be appropriate to include any defences for the new offences. The existing defences in the OWA and associated legislation covering this area are in my view sufficient. However, if the Home Office is considering additional defences along the lines of those in the OWA for bladed articles/bladed products there may be some views in relation to sale/remote sale defences where merely being a business/delivery to an address used as a business (even if also a dwelling) would not be sufficient for these offensive weapons. This is because if the same approach were adopted it would allow anyone engaged in any business to buy the prohibited type machetes etc. undermining the proposed controls. Much like Regulated Explosives Pre-Cursors, where a Licence is required to buy certain chemicals and the Licence specifies the amount, type and use permitted, we would suggest that any new/the existing OWA defences would need review to tighten access to the defence where the purchaser is engaged only in agricultural professions where a clear need to purchase the item can be demonstrated. Otherwise, someone who is for example self-employed in their own business delivering fast food could claim they are a business and could buy/order these items online to be delivered remotely.

Proposal two: Whether additional powers should be given to the police to seize, retain and destroy lawfully held bladed articles of a certain length if these are found by the police when in private property lawfully and they have reasonable grounds to believe that the article(s) are likely to be used in a criminal act.

This is not a matter for Trading Standards.

Proposal 3: Whether there is a need to increase the maximum penalty for the importation, manufacture, sale and supply of prohibited offensive weapons (s141 of the Criminal Justice Act 1988 and s1 Restriction of Offensive Weapons Act 1959) and the offence of selling bladed articles to persons under 18 (s141A of the Criminal Justice Act 1988) to 2 years, to reflect the severity of these offences.

This is long overdue. It will bring offences in line with Knives Act 1997, and increase time limits to investigate. CTSI support this proposal.

Proposal 4: Whether the Criminal Justice System should treat possession in public of prohibited knives and offensive weapons more seriously.

This is not a matter for Trading Standards.

Proposal 5: Whether there is a need for a separate possession offence of bladed articles with the intention to injure or cause fear of violence with a maximum penalty higher than the current offence of possession of an offensive weapon under s1 of the PCA 1953.

This is not a matter for Trading Standards.

FOR FURTHER INFORMATION

CTSI is happy to work with the Home Office and other agencies to contribute to work in this area in order to protect consumers and protect reputable businesses.

Please contact Duncan Stephenson, Director of External Affairs for further information (duncans@tsi.org.uk or 07557 229 774)