



Violent Crime Reduction Act 2006

2006 CHAPTER 38

PART 2

WEAPONS ETC.

Dangerous weapons

28 Using someone to mind a weapon

- (1) A person is guilty of an offence if—
 - (a) he uses another to look after, hide or transport a dangerous weapon for him; and
 - (b) he does so under arrangements or in circumstances that facilitate, or are intended to facilitate, the weapon's being available to him for an unlawful purpose.
- (2) For the purposes of this section the cases in which a dangerous weapon is to be regarded as available to a person for an unlawful purpose include any case where—
 - (a) the weapon is available for him to take possession of it at a time and place; and
 - (b) his possession of the weapon at that time and place would constitute, or be likely to involve or to lead to, the commission by him of an offence.
- (3) In this section “dangerous weapon” means—
 - (a) a firearm other than an air weapon or a component part of, or accessory to, an air weapon; or
 - (b) a weapon to which section 141 or 141A of the Criminal Justice Act 1988 (c. 33) applies (specified offensive weapons, knives and bladed weapons).
- (4) In its application to Scotland, this section has effect with the omission of subsection (3) (b), and of the word “or” immediately preceding it.

29 Penalties etc. for offence under s. 28

- (1) This section applies where a person (“the offender”) is guilty of an offence under section 28.
- (2) Where the dangerous weapon in respect of which the offence was committed is a weapon to which section 141 or 141A of the Criminal Justice Act 1988 (specified offensive weapons, knives and bladed weapons) applies, the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.
- (3) Where—
 - (a) at the time of the offence, the offender was aged 16 or over, and
 - (b) the dangerous weapon in respect of which the offence was committed was a firearm mentioned in section 5(1)(a) to (af) or (c) or section 5(1A)(a) of the 1968 Act (firearms possession of which attracts a minimum sentence),the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine, or to both.
- (4) On a conviction in England and Wales, where—
 - (a) subsection (3) applies, and
 - (b) the offender is aged 18 or over at the time of conviction,the court must impose (with or without a fine) a term of imprisonment of not less than 5 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (5) In relation to times before the commencement of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43), the reference in subsection (4) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.
- (6) On a conviction in England and Wales, where—
 - (a) subsection (3) applies, and
 - (b) the offender is aged under 18 at the time of conviction,the court must impose (with or without a fine) a term of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) of not less than 3 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (7) On a conviction in Scotland, where—
 - (a) subsection (3) applies, and
 - (b) the offender is aged 21 or over at the time of conviction,the court must impose (with or without a fine) a sentence of imprisonment of not less than 5 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (8) On a conviction in Scotland, where—
 - (a) subsection (3) applies, and
 - (b) the offender is aged under 21 at the time of conviction and is not a person in whose case subsection (9) applies,the court must impose (with or without a fine) a sentence of detention under section 207 of the Criminal Procedure (Scotland) Act 1995 (c. 46) of not less than 3

years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.

- (9) On a conviction in Scotland, where—
- (a) subsection (3) applies, and
 - (b) the offender is, at the time of conviction, both aged under 18 and subject to a supervision requirement,
- the court must impose (with or without a fine) a sentence of detention under section 208 of the Criminal Procedure (Scotland) Act 1995 of not less than 3 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (10) In any case not mentioned in subsection (2) or (3), the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both.
- (11) Where—
- (a) a court is considering for the purposes of sentencing the seriousness of an offence under section 28, and
 - (b) at the time of the offence the offender was aged 18 or over and the person used to look after, hide or transport the weapon was not,
- the court must treat the fact that that person was under the age of 18 at that time as an aggravating factor (that is to say, a factor increasing the seriousness of the offence).
- (12) Where a court treats a person's age as an aggravating factor in accordance with subsection (11), it must state in open court that the offence was aggravated as mentioned in that subsection.
- (13) Where—
- (a) an offence under section 28 of using another person for a particular purpose is found to have involved that other person's having possession of a weapon, or being able to make it available, over a period of two or more days, or at some time during a period of two or more days, and
 - (b) on any day in that period, an age requirement was satisfied,
- the question whether subsection (3) applies or (as the case may be) the question whether the offence was aggravated under this section is to be determined as if the offence had been committed on that day.
- (14) In subsection (13) the reference to an age requirement is a reference to either of the following—
- (a) the requirement of subsection (3) that the offender was aged 16 or over at the time of the offence;
 - (b) the requirement of subsection (11) that the offender was aged 18 or over at that time and that the other person was not.
- (15) In its application to Scotland, this section has effect with the omission of subsection (2), and of the reference to it in subsection (10).

*Minimum sentences for firearms offences***30 Minimum sentences for certain firearms offences**

- (1) The 1968 Act is amended as follows.
- (2) In section 51A (which imposes minimum sentence requirements for certain offences involving the possession of various firearms), in subsection (1)—
 - (a) in paragraph (a)(ii), for “and” substitute “or”;
 - (b) after paragraph (a)(ii) insert—
 - “(iii) an offence under any of the provisions of this Act listed in subsection (1A) in respect of a firearm or ammunition specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or section 5(1A)(a) of this Act, and”.
- (3) After that subsection insert—

“(1A) The provisions are—

 - (a) section 16 (possession of firearm with intent to injure);
 - (b) section 16A (possession of firearm with intent to cause fear of violence);
 - (c) section 17 (use of firearm to resist arrest);
 - (d) section 18 (carrying firearm with criminal intent);
 - (e) section 19 (carrying a firearm in a public place);
 - (f) section 20(1) (trespassing in a building with firearm).”
- (4) In Schedule 6 (prosecution and punishment of offences) in column 3, in paragraph (a) of the entries relating to sections 19 and 20(1), after “Summary”, in each place, insert “except if the firearm is a firearm specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae) or (af) or section 5(1A)(a) of this Act.”
- (5) This section applies only to offences committed after the commencement of this section.

*Air weapons***31 Prohibition on sale or transfer of air weapons except by registered dealers**

- (1) In subsection (1) of section 3 of the 1968 Act (offence for a person other than a registered firearms dealer to sell etc. a firearm or ammunition by way of trade or business), at the end of paragraph (b) insert “or
 - (c) sells or transfers an air weapon, exposes such a weapon for sale or transfer or has such a weapon in his possession for sale or transfer,”.
- (2) In section 40(2) of that Act (which excludes air weapons from the requirements to keep a register of transactions), omit the words from “to firearms” to “therein”.
- (3) In section 57(4) of that Act (interpretation), in the definition of “firearms dealer”, for the words from “manufactures” onwards substitute—
 - “(a) manufactures, sells, transfers, repairs, tests or proves firearms or ammunition to which section 1 of this Act applies or shot guns; or

(b) sells or transfers air weapons.”

32 Sales of air weapons by way of trade or business to be face to face

- (1) This section applies where a person sells an air weapon by way of trade or business to an individual in Great Britain who is not registered as a firearms dealer.
- (2) A person is guilty of an offence if, for the purposes of the sale, he transfers possession of the air weapon to the buyer otherwise than at a time when both—
 - (a) the buyer, and
 - (b) either the seller or a representative of his,are present in person.
- (3) The reference in subsection (2) to a representative of the seller is a reference to—
 - (a) a person who is employed by the seller in his business as a registered firearms dealer;
 - (b) a registered firearms dealer who has been authorised by the seller to act on his behalf in relation to the sale; or
 - (c) a person who is employed by a person falling within paragraph (b) in his business as a registered firearms dealer.
- (4) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale, or to both; and
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both.
- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (4)(a) of this section to 51 weeks is to be read as a reference to 6 months.

33 Age limits for purchase etc. of air weapons

- (1) The 1968 Act is amended as follows.
- (2) For section 22(1) (acquisition and possession of firearms by minors) substitute—

“(1) It is an offence—

 - (a) for a person under the age of eighteen to purchase or hire an air weapon or ammunition for an air weapon;
 - (b) for a person under the age of seventeen to purchase or hire a firearm or ammunition of any other description.”
- (3) In subsection (4) of that section, for “seventeen” substitute “eighteen”.
- (4) For section 24(1) (supplying firearms to minors) substitute—

“(1) It is an offence—

 - (a) to sell or let on hire an air weapon or ammunition for an air weapon to a person under the age of eighteen;
 - (b) to sell or let on hire a firearm or ammunition of any other description to a person under the age of seventeen.”

Status: This is the original version (as it was originally enacted).

- (5) In subsection (4) of that section in paragraphs (a) and (b), for “seventeen” substitute “eighteen”.
- (6) In the table in Part 1 of Schedule 6 (punishment)—
- (a) in the entry for section 22(1), in the second column, at the end insert “or person under 18 acquiring air weapon”;
 - (b) in the entry for section 22(4), in the second column, for “17” substitute “18”;
 - (c) in the entry for section 24(1), in the second column, at the end insert “or an air weapon to a person under 18”;
 - (d) in the entry for section 24(4), in the second column, for “17” substitute “18”.

34 Firing an air weapon beyond premises

- (1) The 1968 Act is amended as follows.
- (2) After section 21 (possession of firearms by persons previously convicted of crime) insert—

“21A Firing an air weapon beyond premises

- (1) A person commits an offence if—
- (a) he has with him an air weapon on any premises; and
 - (b) he uses it for firing a missile beyond those premises.
- (2) In proceedings against a person for an offence under this section it shall be a defence for him to show that the only premises into or across which the missile was fired were premises the occupier of which had consented to the firing of the missile (whether specifically or by way of a general consent).”
- (3) In section 23 (exceptions from section 22(4))—
- (a) in subsection (1), for paragraphs (a) and (b) substitute “for the person under whose supervision he is to allow him to use it for firing any missile beyond those premises.”;
 - (b) after that subsection insert—

“(1A) In proceedings against a person for an offence under subsection (1) it shall be a defence for him to show that the only premises into or across which the missile was fired were premises the occupier of which had consented to the firing of the missile (whether specifically or by way of a general consent).”;
 - (c) omit subsection (4).
- (4) In the table in Part 1 of Schedule 6 (punishment), after the entry for section 21(5) insert—

“Section 21A	Person making improper use of air weapon	Summary	A fine of level 3 on the standard scale	Paragraphs 7 and 8 of Part II of this Schedule apply.”
--------------	--	---------	---	--

- (5) In that table, in the entry for section 23(1), for the words in the second column substitute “Person supervising a person under 18 and allowing him to make improper use of air weapon”.
- (6) In Part 2 of that Schedule (supplementary)—
 - (a) in paragraph 7, after “under section” insert “21A,”;
 - (b) in paragraph 8, after “under section” insert “21A,”.

Ammunition

35 Restriction on sale and purchase of primers

- (1) This section applies to a cap-type primer designed for use in metallic ammunition for a firearm.
- (2) It is an offence for a person to sell to another either—
 - (a) a primer to which this section applies,
 - (b) an empty cartridge case incorporating such a primer,unless that other person falls within subsection (3).
- (3) A person falls within this subsection if—
 - (a) he is a registered firearms dealer;
 - (b) he sells by way of any trade or business either primers or empty cartridge cases incorporating primers, or both;
 - (c) he produces a certificate authorising him to possess a firearm of a relevant kind;
 - (d) he produces a certificate authorising him to possess ammunition of a relevant kind;
 - (e) he shows that he is a person in the service of Her Majesty who is entitled under subsection (6) to acquire a primer to which this section applies;
 - (f) he shows that he is entitled, by virtue of the 1968 Act, the Firearms (Amendment) Act 1988 (c. 45) or any other enactment and otherwise than by virtue of being a person in the service of Her Majesty, to have possession, without a certificate, of a firearm of a relevant kind or of ammunition of a relevant kind;
 - (g) he produces a certificate authorising another person to have possession of such a firearm, or of such ammunition, together with that other person’s authority to purchase the primer or empty cartridge case on his behalf; or
 - (h) he shows that he is authorised by regulations made by the Secretary of State to purchase primers or cartridge cases of the type in question.
- (4) It is an offence for a person to buy or to attempt to buy—
 - (a) a primer to which this section applies, or
 - (b) an empty cartridge case incorporating such a primer,unless he falls within subsection (5).
- (5) A person falls within this subsection if—
 - (a) he is a registered firearms dealer;
 - (b) he sells by way of any trade or business either primers or empty cartridge cases incorporating primers, or both;

Status: This is the original version (as it was originally enacted).

- (c) he holds a certificate authorising him to possess a firearm of a relevant kind;
 - (d) he holds a certificate authorising him to possess ammunition of a relevant kind;
 - (e) he is a person in the service of Her Majesty who is entitled under subsection (6) to acquire a primer to which this section applies;
 - (f) he is entitled, by virtue of the 1968 Act, the Firearms (Amendment) Act 1988 or any other enactment and otherwise than by virtue of being a person in the service of Her Majesty, to have possession, without a certificate, of a firearm of a relevant kind or of ammunition of a relevant kind;
 - (g) he is in possession of a certificate authorising another person to have possession of such a firearm, or of such ammunition, and has that other person's authority to purchase the primer or empty cartridge case on his behalf; or
 - (h) he is authorised by regulations made by the Secretary of State to purchase primers or cartridge cases of the type in question.
- (6) A person who is in the service of Her Majesty is entitled to acquire a primer to which this section applies if—
- (a) he is duly authorised in writing to acquire firearms and ammunition for the public service; or
 - (b) he is a person who is authorised to purchase a firearm or ammunition by virtue of a certificate issued in accordance with section 54(2)(b) of the 1968 Act (certificates for persons in naval, military or air service of Her Majesty).
- (7) An offence under this section shall be punishable, on summary conviction—
- (a) in England and Wales, with imprisonment for a term not exceeding 51 weeks or with a fine not exceeding level 5 on the standard scale, or with both; and
 - (b) in Scotland, with imprisonment for a term not exceeding 6 months or with a fine not exceeding level 5 on the standard scale, or with both.
- (8) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (7)(a) of this section to 51 weeks is to be read as a reference to 6 months.
- (9) The power of the Secretary of State to make regulations for the purposes of subsection (3)(h) or (5)(h) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) That power includes power—
- (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
- (11) In this section—
- “ammunition of a relevant kind” means ammunition for a firearm of a relevant kind;
 - “enactment” includes an enactment passed after the passing of this Act;
 - “firearm of a relevant kind” means a firearm other than a shot gun, an air weapon or a firearm chambered for rim-fire ammunition.

Imitation firearms

36 Manufacture, import and sale of realistic imitation firearms

- (1) A person is guilty of an offence if—
 - (a) he manufactures a realistic imitation firearm;
 - (b) he modifies an imitation firearm so that it becomes a realistic imitation firearm;
 - (c) he sells a realistic imitation firearm; or
 - (d) he brings a realistic imitation firearm into Great Britain or causes one to be brought into Great Britain.
- (2) Subsection (1) has effect subject to the defences in section 37.
- (3) The Secretary of State may by regulations—
 - (a) provide for exceptions and exemptions from the offence under subsection (1); and
 - (b) provide for it to be a defence in proceedings for such an offence to show the matters specified or described in the regulations.
- (4) Regulations under subsection (3) may—
 - (a) frame any exception, exemption or defence by reference to an approval or consent given in accordance with the regulations;
 - (b) provide for approvals and consents to be given in relation to particular cases or in relation to such descriptions of case as may be specified or described in the regulations; and
 - (c) confer the function of giving approvals or consents on such persons specified or described in the regulations as the Secretary of State thinks fit.
- (5) The power of the Secretary of State to make regulations under subsection (3) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) That power includes power—
 - (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
- (7) A realistic imitation firearm brought into Great Britain shall be liable to forfeiture under the customs and excise Acts.
- (8) In subsection (7) “the customs and excise Acts” has the meaning given by section 1 of the Customs and Excise Management Act 1979 (c. 2).
- (9) An offence under this section shall be punishable, on summary conviction—
 - (a) in England and Wales, with imprisonment for a term not exceeding 51 weeks or with a fine not exceeding level 5 on the standard scale, or with both; and
 - (b) in Scotland, with imprisonment for a term not exceeding 6 months or with a fine not exceeding level 5 on the standard scale, or with both.

- (10) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (9)(a) of this section to 51 weeks is to be read as a reference to 6 months.
- (11) In this section “realistic imitation firearm” has the meaning given by section 38.

37 Specific defences applying to the offence under s. 36

- (1) It shall be a defence for a person charged with an offence under section 36 in respect of any conduct to show that the conduct was for the purpose only of making the imitation firearm in question available for one or more of the purposes specified in subsection (2).
- (2) Those purposes are—
- (a) the purposes of a museum or gallery;
 - (b) the purposes of theatrical performances and of rehearsals for such performances;
 - (c) the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 (c. 48) see section 5B of that Act);
 - (d) the production of television programmes (within the meaning of the Communications Act 2003 (c. 21) see section 405(1) of that Act);
 - (e) the organisation and holding of historical re-enactments organised and held by persons specified or described for the purposes of this section by regulations made by the Secretary of State;
 - (f) the purposes of functions that a person has in his capacity as a person in the service of Her Majesty.
- (3) It shall also be a defence for a person charged with an offence under section 36 in respect of conduct falling within subsection (1)(d) of that section to show that the conduct—
- (a) was in the course of carrying on any trade or business; and
 - (b) was for the purpose of making the imitation firearm in question available to be modified in a way which would result in its ceasing to be a realistic imitation firearm.
- (4) For the purposes of this section a person shall be taken to have shown a matter specified in subsection (1) or (3) if—
- (a) sufficient evidence of that matter is adduced to raise an issue with respect to it; and
 - (b) the contrary is not proved beyond a reasonable doubt.
- (5) The power of the Secretary of State to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) That power includes power—
- (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.

(7) In this section—

“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 time or period in the past;

“museum or gallery” includes any institution which—

- (a) has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest; and
- (b) gives the public access to it.

38 Meaning of “realistic imitation firearm”

(1) In sections 36 and 37 “realistic imitation firearm” means an imitation firearm which—

- (a) has an appearance that is so realistic as to make it indistinguishable, for all practical purposes, from a real firearm; and
- (b) is neither a de-activated firearm nor itself an antique.

(2) For the purposes of this section, an imitation firearm is not (except by virtue of subsection (3)(b)) to be regarded as distinguishable from a real firearm for any practical purpose if it could be so distinguished only—

- (a) by an expert;
- (b) on a close examination; or
- (c) as a result of an attempt to load or to fire it.

(3) In determining for the purposes of this section whether an imitation firearm is distinguishable from a real firearm—

- (a) the matters that must be taken into account include any differences between the size, shape and principal colour of the imitation firearm and the size, shape and colour in which the real firearm is manufactured; and
- (b) the imitation is to be regarded as distinguishable if its size, shape or principal colour is unrealistic for a real firearm.

(4) The Secretary of State may by regulations provide that, for the purposes of subsection (3)(b)—

- (a) the size of an imitation firearm is to be regarded as unrealistic for a real firearm only if the imitation firearm has dimensions that are less than the dimensions specified in the regulations; and
- (b) a colour is to be regarded as unrealistic for a real firearm only if it is a colour specified in the regulations.

(5) The power of the Secretary of State to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(6) That power includes power—

- (a) to make different provision for different cases;
- (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
- (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.

(7) In this section—

Status: This is the original version (as it was originally enacted).

“colour” is to be construed in accordance with subsection (9);

“de-activated firearm” means an imitation firearm that consists in something which—

- (a) was a firearm; but
- (b) has been so rendered incapable of discharging a shot, bullet or other missile as no longer to be a firearm;

“real firearm” means—

- (a) a firearm of an actual make or model of modern firearm (whether existing or discontinued); or
- (b) something falling within a description which could be used for identifying, by reference to their appearance, the firearms falling within a category of actual modern firearms which, even though they include firearms of different makes or models (whether existing or discontinued) or both, all have the same or a similar appearance.

- (8) In subsection (7) “modern firearm” means any firearm other than one the appearance of which would tend to identify it as having a design and mechanism of a sort first dating from before the year 1870.
- (9) References in this section, in relation to an imitation firearm or a real firearm, to its colour include references to its being made of transparent material.
- (10) Section 8 of the Firearms (Amendment) Act 1988 (c. 45) (under which firearms are deemed to be deactivated if they are appropriately marked) applies for the purposes of this section as it applies for the purposes of the 1968 Act.

39 Specification for imitation firearms

- (1) The Secretary of State may by regulations make provision requiring imitation firearms to conform to specifications which are—
 - (a) set out in the regulations; or
 - (b) approved by such persons and in such manner as may be so set out.
- (2) A person is guilty of an offence if—
 - (a) he manufactures an imitation firearm which does not conform to the specifications required of it by regulations under this section;
 - (b) he modifies an imitation firearm so that it ceases to conform to the specifications so required of it;
 - (c) he modifies a firearm to create an imitation firearm that does not conform to the specifications so required of it; or
 - (d) he brings an imitation firearm which does not conform to the specifications so required of it into Great Britain or causes such an imitation firearm to be brought into Great Britain.
- (3) An offence under this section shall be punishable, on summary conviction—
 - (a) in England and Wales, with imprisonment for a term not exceeding 51 weeks or with a fine not exceeding level 5 on the standard scale, or with both; and
 - (b) in Scotland, with imprisonment for a term not exceeding 6 months or with a fine not exceeding level 5 on the standard scale, or with both.

- (4) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (3)(a) of this section to 51 weeks is to be read as a reference to 6 months.
- (5) Regulations under this section may provide that, in proceedings for an offence under this section, it is to be presumed, unless the contrary is proved, that an imitation firearm conforms to the required specification if it, or the description of imitation firearms to which it belongs, has been certified as so conforming by a person who is—
 - (a) specified in the regulations; or
 - (b) determined for the purpose in accordance with provisions contained in the regulations.
- (6) An imitation firearm brought into Great Britain which does not conform to the specifications required of it by regulations under this section shall be liable to forfeiture under the customs and excise Acts.
- (7) In subsection (6) “the customs and excise Acts” has the meaning given by section 1 of the Customs and Excise Management Act 1979 (c. 2).
- (8) The power of the Secretary of State to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) That power includes power—
 - (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.

40 Supplying imitation firearms to minors

- (1) After section 24 of the 1968 Act insert—

“24A Supplying imitation firearms to minors

- (1) It is an offence for a person under the age of eighteen to purchase an imitation firearm.
- (2) It is an offence to sell an imitation firearm to a person under the age of eighteen.
- (3) In proceedings for an offence under subsection (2) it is a defence to show that the person charged with the offence—
 - (a) believed the other person to be aged eighteen or over; and
 - (b) had reasonable ground for that belief.
- (4) For the purposes of this section a person shall be taken to have shown the matters specified in subsection (3) if—
 - (a) sufficient evidence of those matters is adduced to raise an issue with respect to them; and
 - (b) the contrary is not proved beyond a reasonable doubt.”

Status: This is the original version (as it was originally enacted).

- (2) In the table in Part 1 of Schedule 6 (punishment), after the entry for section 24(4) insert—

“Section 24A(1) or (2)	Acquisition by a minor of an imitation firearm and supplying him.	Summary	In England and Wales, 51 weeks or a fine of level 5 on the standard scale, or both. In Scotland, 6 months, or a fine of level 5 on the standard scale, or both.	—”
------------------------	---	---------	--	----

- (3) In relation to an offence committed in England and Wales before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference to 51 weeks in the entry inserted by subsection (2) of this section is to be read as a reference to 6 months.

41 Increase of maximum sentence for possessing an imitation firearm

- (1) In the entry in Schedule 6 to the 1968 Act relating to section 19 of that Act (mode of trial and punishment of possession of firearm or imitation firearm in a public place)—
- (a) in paragraph (b) of column 3 (offence to be triable either way except in the case of an imitation firearm or air weapon), omit the words “in the case of an imitation firearm or”; and
 - (b) in column 4, for “7 years or a fine; or both” substitute—
 - “(i) if the weapon is an imitation firearm, 12 months or a fine, or both;
 - (ii) in any other case, 7 years or a fine, or both.”
- (2) An offence in England and Wales under section 19 of the 1968 Act in respect of an imitation firearm which is triable either way by virtue of this section is to be treated—
- (a) as an offence to which section 282(3) of the Criminal Justice Act 2003 (c. 44) (increase of maximum sentence on conviction of an either way offence) applies; and
 - (b) as not being an offence to which section 281(5) of that Act (increase of maximum sentence on conviction of a summary only offence) applies.
- (3) This section—
- (a) applies only to offences committed after the commencement of this section; and
 - (b) so far as it relates to subsection (3) of section 282 of the Criminal Justice Act 2003 or subsection (5) of section 281 of that Act, does not have effect in relation to offences committed before the commencement of that subsection.

Knives, etc.

42 Increase of maximum sentences for offences of having knives etc.

- (1) In each of the following provisions of the Criminal Justice Act 1988 (c. 33), for “two” substitute “four”—
 - (a) section 139(6)(b) (maximum penalty for offence of having knife etc. in public place);
 - (b) section 139A(5)(a)(ii) (maximum penalty for offence of having knife etc. or offensive weapon on school premises).
- (2) This section applies only to offences committed after the commencement of this section.

43 Sale etc. of knives and other weapons

- (1) The Criminal Justice Act 1988 is amended as follows.
- (2) In section 141A(1) (prohibition on sale of knives etc. to persons under sixteen), for “sixteen” substitute “eighteen”.
- (3) In subsections (5), (8) and (9) of section 141 (defences relating to museums and galleries to offence of manufacture, sale etc. of prescribed weapons), for “prove” substitute “show”.
- (4) After subsection (11) of that section insert—
 - “(11A) It shall be a defence for a person charged in respect of conduct of his relating to a weapon to which this section applies—
 - (a) with an offence under subsection (1) above, or
 - (b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,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 in subsection (11B).
 - (11B) Those purposes are—
 - (a) the purposes of theatrical performances and of rehearsals for such performances;
 - (b) the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 – see section 5B of that Act);
 - (c) the production of television programmes (within the meaning of the Communications Act 2003 – see section 405(1) of that Act).
 - (11C) For the purposes of this section a person shall be taken to have shown a matter specified in subsection (5), (8), (9) or (11A) if—
 - (a) sufficient evidence of that matter is adduced to raise an issue with respect to it; and
 - (b) the contrary is not proved beyond a reasonable doubt.
 - (11D) The Secretary of State may by order made by statutory instrument—

Status: This is the original version (as it was originally enacted).

- (a) provide for exceptions and exemptions from the offence under subsection (1) above or from the prohibition in subsection (4) above; and
- (b) provide for it to be a defence in proceedings for such an offence, or for an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979, to show the matters specified or described in the order.

(11E) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.”

- (5) The defence in section 141(11A) is not available in relation to so much of any charge as relates to conduct taking place before the commencement of this section.

44 Sale etc. of crossbows

- (1) In the Crossbows Act 1987 (c. 32), in the provisions mentioned in subsection (2), for “seventeen”, in each place it occurs, substitute “eighteen”.
- (2) The provisions are—
- (a) section 1 (sale and letting on hire);
 - (b) section 2 (purchase and hiring);
 - (c) section 3 (possession).

45 Power of members of staff to search school pupils for weapons

After section 550A of the Education Act 1996 (c. 56) insert—

“550AA Power of members of staff to search pupils for weapons

- (1) A member of the staff of a school who has reasonable grounds for suspecting that a pupil at the school may have with him or in his possessions—
- (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc.), or
 - (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953),
- may search that pupil or his possessions for such articles and weapons.
- (2) A search under this section may be carried out only where—
- (a) the member of the staff and the pupil are on the premises of the school; or
 - (b) they are elsewhere and the member of the staff has lawful control or charge of the pupil.
- (3) A person may carry out a search under this section only if—
- (a) he is the head teacher of the school; or
 - (b) he has been authorised by the head teacher to carry out the search.
- (4) Nothing in any enactment, instrument or agreement shall be construed as authorising a head teacher of a school to require a person other than a member of the security staff of the school to carry out a search under this section.

Status: This is the original version (as it was originally enacted).

- (5) A person who carries out a search of a pupil under this section—
- (a) may not require the pupil to remove any clothing other than outer clothing;
 - (b) must be of the same sex as the pupil; and
 - (c) may carry out the search only in the presence of another member of the staff who is also of the same sex as the pupil.
- (6) A pupil's possessions may not be searched under this section except in his presence and in the presence of another member of the staff.
- (7) If, in the course of a search under this section, the person carrying out the search finds—
- (a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or
 - (b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,
- he may seize and retain it.
- (8) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.
- (9) A person who seizes anything under subsection (7) must deliver it to a police constable as soon as reasonably practicable.
- (10) The Police (Property) Act 1897 (disposal of property in the possession of the police) shall apply to property which has come into the possession of a police constable under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.
- (11) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.
- (12) In this section—
- 'member of the staff', in relation to a school, means—
 - (a) any teacher who works at the school; and
 - (b) any other person who, with the authority of the head teacher, has lawful control or charge of pupils for whom education is being provided at the school;
 - 'member of the security staff' means a member of the staff whose work at the school consists wholly or mainly of security-related activities;
 - 'outer clothing' means—
 - (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
 - (b) a hat, shoes, boots, gloves or a scarf;
 - 'possessions', in relation to a pupil of a school, includes any goods over which he has or appears to have control.
- (13) The powers conferred by this section are in addition to any powers exercisable by the member of the staff in question apart from this section and are not to be construed as restricting such powers."

46 Power to search further education students for weapons

After section 85A of the Further and Higher Education Act 1992 (c. 13) insert—

“85B Power to search further education students for weapons

- (1) A member of staff of an institution within the further education sector who has reasonable grounds for suspecting that a student at the institution may have with him or in his possessions—
 - (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc.), or
 - (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953),may search that student or his possessions for such articles and weapons.
- (2) A search under this section may be carried out only where—
 - (a) the member of staff and the student are on the premises of the institution; or
 - (b) they are elsewhere and the member of staff has lawful control or charge of the student.
- (3) A person may carry out a search under this section only if—
 - (a) he is the principal of the institution; or
 - (b) he has been authorised by the principal to carry out the search.
- (4) A person who carries out a search of a student under this section—
 - (a) may not require the student to remove any clothing other than outer clothing;
 - (b) must be of the same sex as the student; and
 - (c) may carry out the search only in the presence of another member of staff who is also of the same sex as the student.
- (5) A student’s possessions may not be searched under this section except in his presence and in the presence of another member of staff.
- (6) If, in the course of a search under this section, the person carrying out the search finds—
 - (a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or
 - (b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,he may seize and retain it.
- (7) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.
- (8) A person who seizes anything under subsection (6) must deliver it to a police constable as soon as reasonably practicable.
- (9) The Police (Property) Act 1897 (disposal of property in the possession of the police) shall apply to property which has come into the possession of a police constable under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.

- (10) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.
- (11) In this section—
- ‘member of staff’, in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee;
 - ‘outer clothing’ means—
 - (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
 - (b) a hat, shoes, boots, gloves or a scarf;
 - ‘possessions’, in relation to a student of an institution within the further education sector, includes any goods over which he has or appears to have control.
- (12) The powers conferred by this section are in addition to any powers exercisable by the member of staff in question apart from this section and are not to be construed as restricting such powers.”

47 Power to search persons in attendance centres for weapons

- (1) A member of staff of an attendance centre who has reasonable grounds for suspecting that a relevant person may have with him or in his possessions—
- (a) an article to which section 139 of the Criminal Justice Act 1988 (c. 33) applies (knives and blades etc.), or
 - (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953 (c. 14)),
- may search the relevant person or his possessions for such articles and weapons.
- (2) A search under this section may be carried out only where the member of staff and the relevant person are on the premises of the attendance centre.
- (3) A person may carry out a search under this section only if—
- (a) he is the officer in charge of the attendance centre; or
 - (b) he has been authorised by the officer in charge to carry out the search.
- (4) A person who carries out a search of a relevant person under this section—
- (a) may not require the relevant person to remove any clothing other than outer clothing;
 - (b) must be of the same sex as the relevant person; and
 - (c) may carry out the search only in the presence of another member of staff who is also of the same sex as the relevant person.
- (5) A relevant person’s possessions may not be searched under this section except in his presence and in the presence of another member of staff.
- (6) If, in the course of a search under this section, the person carrying out the search finds—
- (a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or

Status: This is the original version (as it was originally enacted).

- (b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,
he may seize and retain it.
- (7) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.
- (8) A person who seizes anything under subsection (6) must deliver it to a police constable as soon as reasonably practicable.
- (9) The Police (Property) Act 1897 (c. 30) (disposal of property in the possession of the police) shall apply to property which has come into the possession of a police constable under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.
- (10) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.
- (11) In this section—
 “attendance centre” has the same meaning as in Part 12 of the Criminal Justice Act 2003 (c. 44) (see section 221 of that Act);
 “officer in charge”, in relation to an attendance centre, means the member of staff for the time being in charge of that centre;
 “outer clothing” means—
 (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
 (b) a hat, shoes, boots, gloves or a scarf;
 “possessions”, in relation to a person, includes any goods over which he has or appears to have control;
 “relevant person”, in relation to an attendance centre, means a person who is required to attend at that centre by virtue of—
 (a) a relevant order (within the meaning of section 196 of the Criminal Justice Act 2003 (c. 44)); or
 (b) an attendance centre order under section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).
- (12) The powers conferred by this section are in addition to any powers exercisable by the member of staff of an attendance centre in question apart from this section and are not to be construed as restricting such powers.

48 Amendment of police power to search schools etc. for weapons

In section 139B of the Criminal Justice Act 1988 (c. 33) (power of entry to search for knives etc. and offensive weapons), in subsection (1) for “believing” substitute “suspecting”.

Supplemental

49 Consequential amendments relating to minimum sentences

Schedule 1 (which makes provision consequential on the provisions of this Part relating to minimum sentences) has effect.

50 Supplemental provisions for Part 2

- (1) In this Part “the 1968 Act” means the Firearms Act 1968 (c. 27).
- (2) Expressions used in this Part and in the 1968 Act have the same meanings in this Part as in that Act.
- (3) The following provisions of the 1968 Act apply as if sections 28, 29, 32 and 35 to 39 of this Act were contained in that Act—
 - (a) section 46 (power of search with warrant);
 - (b) section 51(4) (limitation period for prosecutions);
 - (c) section 52 (forfeiture and disposal of firearms and ammunition);
 - (d) section 58 (savings).
- (4) Section 35 binds persons in the service of Her Majesty; and for the purposes of—
 - (a) this section,
 - (b) that section,
 - (c) section 37(2)(f),
 - (d) any rule of law under which any of the provisions of section 28, 29, 32, 36 or 39 do not bind the Crown,a person is in the service of Her Majesty if he is deemed to be in such service (or to be in the naval, military or air service of Her Majesty) for the purposes of and under section 54 of the 1968 Act (Crown application).
- (5) In section 52 of the 1968 Act, after subsection (4) insert—

“(5) In this section references to ammunition include references to a primer to which section 35 of the Violent Crime Reduction Act 2006 applies and to an empty cartridge case incorporating such a primer.”

51 Corresponding provision for Northern Ireland

Schedule 2 (which makes provision for Northern Ireland corresponding to that made by the preceding provisions of this Part, other than sections 31 to 35, 42 and 45 to 47) has effect.