



# Violent Crime Reduction Act 2006

## 2006 CHAPTER 38

### PART 2

#### WEAPONS ETC.

##### *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.

*Status: Point in time view as at 01/10/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Cross Heading: Imitation firearms. (See end of Document for details)*

- (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.

#### Commencement Information

**II** S. 36 in force at 1.10.2007 by S.I. 2007/2180, art. 3(e)

### 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;

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- (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.

**Commencement Information**

**I2** S. 37 in force at 1.10.2007 by S.I. 2007/2180, art. 3(f)

**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—

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- (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—
- “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.

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- (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.

#### Commencement Information

**I3** S. 38 in force at 1.10.2007 by S.I. 2007/2180, art. 3(g)

### 39 Specification for imitation firearms

- (1) The Secretary of State may by regulations make provision requiring imitation firearms to conform to specifications which are—
- set out in the regulations; or
  - approved by such persons and in such manner as may be so set out.
- (2) A person is guilty of an offence if—
- he manufactures an imitation firearm which does not conform to the specifications required of it by regulations under this section;
  - he modifies an imitation firearm so that it ceases to conform to the specifications so required of it;
  - he modifies a firearm to create an imitation firearm that does not conform to the specifications so required of it; or
  - 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—
- 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
  - 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—
- specified in the regulations; or
  - 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.

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- (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.

#### Commencement Information

**I4** S. 39 in force at 1.10.2007 by S.I. 2007/2180, art. 3(h)

## 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.”
- (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
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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.

**Commencement Information**

**I5** S. 40 in force at 1.10.2007 by S.I. 2007/2180, art. 3(i)

**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.

**Commencement Information**

**I6** S. 41 in force at 1.10.2007 by S.I. 2007/2518, art. 2

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