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

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## SCHEDULES

### SCHEDULE 2

#### WEAPONS ETC.: CORRESPONDING PROVISIONS FOR NORTHERN IRELAND

##### *Manufacture, import and sale of realistic imitation firearms*

- 4 (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 Northern Ireland or causes one to be brought into Northern Ireland.
- (2) Sub-paragraph (1) has effect subject to the defences in paragraph 5.
- [<sup>F1</sup>(2A) The Department of Justice may by regulations—
- (a) provide for exceptions and exemptions from the offence under sub-paragraph (1)(a), (b) or (c); 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.]
- (3) The Secretary of State may by regulations—
- (a) provide for exceptions and exemptions from the offence under sub-paragraph [<sup>F2</sup>(1)(d)]; 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 sub-paragraph [<sup>F3</sup>(2A) or (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 [<sup>F4</sup>the Department of Justice or (as the case may be)] the Secretary of State thinks fit.
- [<sup>F5</sup>(4A) The power of the Department of Justice to make regulations under sub-paragraph (2A) shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.]
- [<sup>F5</sup>(4B) That power includes power—
- (a) to make different provision for different cases;

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- (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
  - (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.]
- [<sup>F5</sup>(4C) Regulations under sub-paragraph (2A) shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).]
- (5) The power of the Secretary of State to make regulations under sub-paragraph (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 Northern Ireland shall be liable to forfeiture under the customs and excise Acts.
  - (8) In sub-paragraph (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 paragraph shall be punishable, on summary conviction, 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 this paragraph “realistic imitation firearm” has the meaning given by paragraph 6.

#### Textual Amendments

- F1** Sch. 2 para. 4(2A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 11 para. 15(2)** (with arts. 28-31)
- F2** Word in Sch. 2 para. 4(3) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 11 para. 15(3)** (with arts. 28-31)
- F3** Words in Sch. 2 para. 4(4) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 11 para. 15(4)(a)** (with arts. 28-31)
- F4** Words in Sch. 2 para. 4(4)(c) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 11 para. 15(4)(b)** (with arts. 28-31)
- F5** Sch. 2 para. 4(4A)-(4C) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 11 para. 15(5)** (with arts. 28-31)

#### Commencement Information

- I1** Sch. 2 para. 4 in force at 1.10.2007 by [S.I. 2007/2180](#), **art. 4(d)(i)**

- 5 (1) It shall be a defence for a person charged with an offence under paragraph 4 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 sub-paragraph (2).

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- (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 paragraph by regulations made by the [<sup>F6</sup>appropriate authority];
  - (f) the purposes of functions that a person has in his capacity as a person in the service of the Crown.
- [<sup>F7</sup>(2A) In sub-paragraph (2)(e) “the appropriate authority” means—
- (a) in relation to the offence under paragraph 4(1)(a), (b) or (c), the Department of Justice;
  - (b) in relation to the offence under paragraph 4(1)(d), the Secretary of State.]
- (3) It shall also be a defence for a person charged with an offence under paragraph 4 in respect of conduct falling within sub-paragraph (1)(d) of that paragraph 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 paragraph a person shall be taken to have shown a matter specified in sub-paragraph (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.
- [<sup>F8</sup>(4A) The power of the Department of Justice to make regulations under this paragraph shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.]
- [<sup>F8</sup>(4B) That power includes power—
- (a) to make different provision for different cases;
  - (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
  - (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.]

[<sup>F8</sup>(4C) Regulations made by the Department of Justice under this paragraph shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).]

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

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- (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 paragraph—
- “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.

#### Textual Amendments

- F6** Words in Sch. 2 para. 5(2)(e) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 11 para. 16(2)** (with arts. 28-31)
- F7** Sch. 2 para. 5(2A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 11 para. 16(3)** (with arts. 28-31)
- F8** Sch. 2 para. 5(4A)-(4C) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 11 para. 16(4)** (with arts. 28-31)

#### Commencement Information

- I2** Sch. 2 para. 5 in force at 1.10.2007 by [S.I. 2007/2180](#), **art. 4(d)(i)**

- 6 (1) In paragraphs 4 and 5 “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 paragraph, an imitation firearm is not (except by virtue of sub-paragraph (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 paragraph 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.

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- (4) The [<sup>F9</sup>appropriate authority] may by regulations provide that, for the purposes of sub-paragraph (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.
- [<sup>F10</sup>(4A) In sub-paragraph (4) “the appropriate authority” means—
- (a) in the application of this paragraph for the purposes of the offence under paragraph 4(1)(a), (b) or (c), the Department of Justice;
  - (b) in the application of this paragraph for the purposes of the offence under paragraph 4(1)(d) or for the purposes of paragraph 4(7), the Secretary of State.]
- [<sup>F10</sup>(4B) The power of the Department of Justice to make regulations under this paragraph shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.]
- [<sup>F10</sup>(4C) That power includes power—
- (a) to make different provision for different cases;
  - (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
  - (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.]

[<sup>F10</sup>(4D) Regulations made by the Department of Justice under this paragraph shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).]

(5) The power of the Secretary of State to make regulations under this paragraph 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 paragraph—

    - “colour” is to be construed in accordance with sub-paragraph (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

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- (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 sub-paragraph (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 paragraph, in relation to an imitation firearm or a real firearm, to its colour include references to its being made of transparent material.
- (10) Article 2(7) of the Firearms Order (under which firearms are deemed to be deactivated if they are appropriately marked) applies for the purposes of this paragraph as it applies for the purposes of that Order.

#### **Textual Amendments**

- F9** Words in [Sch. 2 para. 6\(4\)](#) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 11 para. 17\(2\)](#) (with arts. 28-31)
- F10** [Sch. 2 para. 6\(4A\)-\(4D\)](#) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 11 para. 17\(3\)](#) (with arts. 28-31)

#### **Commencement Information**

- I3** [Sch. 2 para. 6](#) in force at 1.10.2007 by [S.I. 2007/2180](#), [art. 4\(d\)\(i\)](#)

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