

# REPLICA IMITATION FIREARMS ('RIFS')

## Introduction

The Violent Crime Reduction Act 2006 (hereinafter referred to as 'the 2006 Act') received royal assent in October 2006. The principle sections of the 2006 Act that this guidance note is concerned with are 36 to 38; these sections contain provisions dealing with RIFs. In essence the 2006 Act makes it an offence to manufacture, import or sell RIFs, however historical re-enactment does have a defence.

## What do we mean by a 'replica imitation firearm'?

Section 38 of the 2006 Act defines a "realistic imitation firearm" as an imitation firearm which has an appearance that is so realistic as to make it indistinguishable, for all practical purposes, from a real firearm.

"**Imitation firearm**" is also defined in section 57(4) of the Firearms 1968 as "any thing which has the appearance of being a firearm...whether or not it is capable of discharging any shot, bullet or other missile".

The term "**real firearm**" is defined in section 38(7) of the 2006 Act as either a firearm of an actual make or model of a modern firearm, or a generic modern firearm.

The term "**modern firearm**" is defined in section 38(8) of the 2006 Act as a firearm other than one whose appearance would tend to identify it as having a design and mechanism of a sort first dating before 1870. The effect of this definition is that realistic imitations of pre-1870 firearms are not caught by the new offence.

Deactivated firearms and antique imitations (such as old dummy rifles used for drill practice) are expressly excluded from the definition of realistic imitation firearm and are therefore not affected by the new offence either.

## What are the offences?

Section 36 of the 2006 Act gives the offences which can be committed:

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.

The primary offences which will affect historical re-enactment are subsections (c) and (d) above – this covers the sale of an RIF or the import of an RIF (note that with the latter, both the actions of physically bringing it in yourself and of causing it to be imported, such as mail order, are covered).

## What are the defences for 'historical re-enactment'?

Section 36(3) of the 2006 Act empowers the Secretary of State the power to grant defences to the offences cited above. It is important to note that these are only defences and not wholesale exemptions from the law. Section 37(2)(e) provides a specific defence “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”

Historical re-enactment is defined under section 37(7) of the 206 Act as "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". This is intended to include a range of re-enactment activities, including the display of military vehicles at shows and presentations to school children by war veterans.

The regulations specify the persons who can claim the defence for historical re-enactment. This is restricted to those organising or taking part in re-enactment activities for which third party liability insurance is held.

As can be seen, the defences are very straight forwards for historical re-enactment. Further definitions are given in regulation 5 of the The Violent Crime Reduction Act 2006 (Realistic Imitation Firearms) Regulations 2007 which effectively defines who can claim the defence under

Section 37(2)(e):

5. — (1) The persons described for the purposes of section 37(2)(e) of the 2006 Act and paragraph 5(2)(e) of Schedule 2 to that Act are those mentioned in paragraph (2).

(2) The persons mentioned in this paragraph are—

(a) a person or persons holding public liability insurance in relation to liabilities to third parties arising from or in connection with the organisation and holding of historical reenactments;

(b) two or more persons, at least one of whom holds such public liability insurance.

### **Are there any other considerations?**

Section 40 of the 2006 Act amends the Firearms Act 1968 to make it an offence to sell an RIF to a person under the age of 18 years, and also for a person under 18 years to purchase an RIF. There are no exemptions or defences specific to historical re-enactment.

It should also be borne in mind that under the Fireams Act 1968, there are other specific offences relating to imitation firearms.

### **Importing an RIF**

If you purchase an RIF overseas and attempt to import it, then it may be seized by UK Border Force. Submission of documentary evidence demonstrating the defence cited above should be adequate to have the item restored to you. Contrary to what

some groups/associations say, there is no 'recognised list' of importers, and each import detected is dealt with on a case by case basis.

### **Summary**

If you are wanting to purchase an RIF, then you must:

1. Be over the age of 18;
2. Belong to a historical re-enactment group of 2 or more people; and
3. Have valid PLI in place.

The onus of satisfaction for the above criteria is, however, placed on the seller of the RIF. As the purchaser, however, you should be prepared to submit documentary evidence of the above on request.

If you are wanting to sell an RIF, then you must:

1. Ensure the purchaser is over the age of 18 years
2. Ensure the purchaser belongs to a historical re-enactment group of 2 or more people
3. That the group has valid PLI in place.

Best practice would be to request confirmation of membership in writing from an officer of the purchasers' group and take copies of their PLI and membership card. If the age of the seller is in any way questionable, a copy of photographic ID should also be taken. It should be noted that the onus is on the seller to prove to his satisfaction that the purchaser meets the legal requirements.

### **Further guidance**

If you require further information or have a situation you would like to discuss, NAReS can provide case specific advice.

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