

Firearms - Realistic Imitation Firearms (RIFs)

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1. Legislation

The Violent Crime Reduction Act 2006 (VCRA) Sections 36 – 40 introduced a number of measures to control violent behaviour. These included new controls on Realistic Imitation Firearms (“RIFs”) in response to widespread concern about the continued use of such weapons in serious crime.

1.1 The Offence - Section 36(1)(d) of the VCRA makes it an **offence to import** a realistic imitation firearm (RIF) into Great Britain or Northern Ireland.

For the purposes of the Act “importation” means bringing RIFs into GB or NI. This is in contrast to importation for the purposes of the Customs and Excise Management Act 1979 (CEMA) (which means importation into the United Kingdom). It follows that the Act treats movements from GB to NI and vice versa as though they were importations. Such movements are not importations for the purposes of CEMA. Consequently, where an officer comes across an RIF which has been brought into GB from NI or vice versa, the RIF is not liable to forfeiture under CEMA and any offence action under section 36 etc. would be a matter solely for the police (who may be informed of the discovery accordingly) depending on the individual circumstances.

Section 36(7) of the VCRA makes RIFs imported without a valid defence liable to forfeiture under Section 49(1)(b) of CEMA.

Section 139(1) of CEMA states that anything liable to forfeiture under the Customs and Excise Acts may be seized or detained...

2. What is a RIF

A **realistic imitation firearm** is defined 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. An imitation firearm is not to be regarded as distinguishable from a real firearm for any practical purpose if it could only be distinguished —

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

In determining 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.

The following are specifically deemed **not** to be realistic imitation firearms:

- realistic imitations of pre-1870 firearms;
- deactivated firearms
- antique imitations;
- any imitation firearm that is smaller than a height of 38 millimetres and a length of 70 millimetres;
- any imitation firearm that is transparent or its **predominant** (more than 50%) colour is any one of the following:

bright red;
bright orange;
bright yellow;
bright green;
bright pink;
bright purple; or
bright blue.

3. Import Defences

The VCRA sets out a number of defences to prosecution which although do not technically apply at the point of import it is UK Border Agency policy to apply them to **private individuals** as if they did.

4. Defences applicable:

- the organisation and holding of permitted activities for which public liability insurance is held in relation to liabilities to third parties arising from or in connection with the organisation and holding of those activities;
- the purposes of display at a "permitted event", which means a commercial event at which realistic imitation firearms are offered for sale or displayed, this relates to certain exhibition events and arms fairs;
- the purposes of a museum or gallery;
- the purposes of theatrical performances or rehearsals;
- the production of films or television programmes;
- the organisation or holding of historical re-enactments;
- the purposes of functions that a person has in his capacity as a person in the service of Her Majesty
- 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 it ceasing to be a realistic imitation firearm.

“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;

the purposes of organising or taking part in certain “permitted activities” relates generally to “airsoft” events but can also include paintballing. Airsoft is a growing modern combat sport that involves the use of realistic imitation firearms in military type scenarios for recreational purposes. It involves participants who eliminate opponents by hitting each other with spherical airsoft pellets launched from airsoft guns. Participants typically employ the use of varying types of weapons designed as replicas of real firearms, tactical gear, and accessories used by modern military and police organizations around the world.

“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.

5. Action to be taken:

Where after consideration you regard the imitation firearm as borderline in terms of the definition of realistic as set out above, then you should refer to your local Firearms and Explosives Officer (FXO) or the policy owners who will advise further.

6. Restoration

Restoration should only be offered where an importer can provide evidence that they meet one of the defences listed. You should consider re-export if requested at the importers expense if, logistically this can be arranged and you believe the importer was not aware of the import controls.

Section 40 of the VCRA makes it an offence for a realistic imitation firearm to be bought or sold to any person under the age of 18 and no defence can be applied. Therefore, whether or not declared and where there is proof that a

person under the age of 18 purchased the realistic imitation firearm, it may be seized under the terms of Section 19 of PACE as evidence of an offence and police follow up action requested.

The RIF cannot be restored to any individual under the age of 18 as to do so would be an offence.

7. Exports

The VCRA assigns no role to UK Border Agency (the Agency) in respect of exports.

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