

GUERNSEY STATUTORY INSTRUMENT

2017 No. 83

**The Firearms and Weapons (Exceptions, Exemptions and
Defences) (Guernsey) Regulations, 2017**

Made

9 October , 2017

Coming into operation

1 November , 2017

Laid before the States

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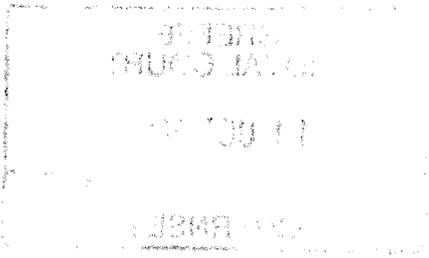
THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred on it by sections 5A(2) and (3), 5B(4), 20(2), 26A and 55A of the Firearms and Weapons (Guernsey) Law, 1998^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Exceptions and defences to offences relating to realistic imitation firearms

Persons approved for the purpose of historical re-enactments.

1. The persons described for the purposes of section 5A(2)(e) of the Law are –

^a Ordres en Conseil Vol. XXXVIII, p. 324; as amended by Vol. XL, p. 24; Order in Council No. IV of 2016; Ordinance No. XXXIII of 2003, No. III of 2012 and No. IX of 2016. See also the Firearms and Weapons (Guernsey) Ordinance, 2017.



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

Further defence to offence under section 5A(1) of the Law.

2. (1) It is a defence in proceedings for an offence under section 5A(1) of the Law for the person charged with the offence to show that his conduct was for the purpose of making the imitation firearm in question available for either or both of the purposes specified in paragraph (2).

(2) The purposes are –

- (a) the organisation and holding of permitted activities, or
- (b) the purpose of display at a permitted event.

(3) In paragraph 2(b), "**permitted event**" means a commercial event at which firearms or realistic imitation firearms (or both) are offered for sale or displayed.

Burden of proof for defence in regulation 2.

3. For the purposes of regulation 2, a person is taken to have shown a matter specified in that regulation 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.

Sizes to be regarded as unrealistic for a real firearm.

4. For the purposes of section 5B(3)(b) of the Law, 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 both the following dimensions –

- (a) a height of 38 millimetres, and
- (b) a length of 70 millimetres.

Colours to be regarded as unrealistic for a real firearm.

5. For the purposes of section 5B(3)(b) of the Law, the colour of an imitation firearm is to be regarded as unrealistic for a real firearm only if the imitation firearm is transparent or one or more of the following colours –

- (a) bright red,
- (b) bright orange,
- (c) bright yellow,
- (d) bright green,
- (e) bright pink,
- (f) bright purple, and
- (g) bright blue.

Exception to offence of carrying air weapon or imitation firearm in a public place

Exception for over-18s or qualified club members carrying air weapon in public place.

6. Nothing in section 20(1) of the Law applies to the carrying of an air weapon or imitation firearm in a public highway or other public place by a person who is of or over the age of 18 years or a qualified club member, where the air weapon or imitation firearm –

- (a) is being carried between the place where it is usually kept and –
 - (i) the premises of a club to which the person belongs, or
 - (ii) shooting-permitted premises,
- (b) is being carried for use in those premises, or for returning the air weapon or imitation firearm after such use to the place where it is usually kept, and
- (c) whilst being so carried, is kept in a securely-fastened case that does not permit the air weapon or imitation firearm to be fired or discharged whilst in the case.

Exceptions to offence of supply or possession of air weapons or imitation firearms in relation to under-18s.

Exception for supply of air weapon or imitation firearm to, or possession of air

weapon or imitation firearm by, qualified club members.

7. Nothing in section 25(1) or (2), or section 26(1) or (2), applies to any of the following –

- (a) sale, gift or loan of an air weapon, imitation firearm or ammunition to a qualified club member,
- (b) purchase or hire of an air weapon, imitation firearm or ammunition by a qualified club member,
- (c) permitting a qualified club member to be in possession or control of an air weapon, imitation firearm or ammunition, or
- (d) possession or control of an air weapon, imitation firearm or ammunition by a qualified club member.

Exemption for lending of air weapon to, or possession of air weapon by, over-12s for supervised use.

8. Nothing in section 25(2) or 26(2) applies to the following –

- (a) a person lending an air weapon or imitation firearm or giving ammunition to another person of or over the age of 12 years solely in order to make it immediately available for the latter to use under adult supervision in any shooting-permitted premises,
- (b) a person permitting another person of or over the age of

12 years to be in possession or control of an air weapon or imitation firearm or ammunition solely in order to make it immediately available for the latter to use under adult supervision in any shooting-permitted premises, or

- (c) possession or control of an air weapon or imitation firearm or ammunition by a person of or over the age of 12 years solely in order to use it under adult supervision in any shooting-permitted premises.

Exceptions to offence of supply or possession of regulated weapons in relation to under-18s.

Exception for lending of speargun to, or possession of speargun by, over-12s for supervised use.

9. Nothing in section 25(2) or 26(2) applies to the following –

- (a) a person lending a speargun to another person of or over the age of 12 years solely in order to make it immediately available for the latter to use under adult supervision,
- (b) a person permitting another person of or over the age of 12 years to be in possession or control of a speargun solely in order to make it immediately available for the latter to use under adult supervision, or
- (c) possession or control of a speargun by a person of or

over the age of 12 years solely in order to use it under adult supervision.

Interpretation.

10. (1) In these Regulations, unless the context requires otherwise –

"**ammunition**", in relation to any air weapon, means any missile designed to be fired by the air weapon,

"**club**", in relation to any air weapon, means a duly constituted club for the use of air weapons of that kind,

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**insurance**" means a contract of insurance or other arrangement made for the purpose of indemnifying a person or persons named in the contract or under the arrangement,

"**the Law**" means the Firearms and Weapons (Guernsey) Law, 1998,

"**permitted activities**" means activities –

- (a) in which military or law enforcement scenarios are acted out for the purposes of recreation, and
- (b) where the person who holds or organises those activities holds public liability insurance in relation to liabilities to third parties arising from or in connection

with the organisation and holding of those activities,

"**public highway**" has the meaning given by section 1 of the Public Thoroughfares (Guernsey) Law, 1958^b,

"**qualified club member**", in relation to any air weapon, means a person of or over the age of 12 years who is a member of a club for the use of air weapons of that kind,

"**shooting-permitted premises**", in relation to any air weapon, means any premises –

- (a) set aside by the occupier as a shooting range for air weapons of that kind, or
- (b) on or in which the occupier permits shooting of air weapons of that kind,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

"**third parties**", in relation to any historical re-enactment or other activity, includes –

^b Ordres en Conseil Vol. XVII, p. 440; as amended by Ordres en Conseil Vol. XXIII, p. 395; Vol. XXXI, p. 278; Vol. XLI, p. 452; Recueil d'Ordonnances Tome XXIX, p. 406.

- (a) participants in, and spectators of, the historical re-enactment or other activity, and
- (b) members of the public, and

"**under adult supervision**", in relation to the use of any air weapon, ammunition or speargun, means use of it by any person of or over the age of 12 years –

- (a) under the control and in the presence of a person of or over the age of 18 years, and
- (b) under conditions that reasonably safeguard from injury all persons within its range, and

other expressions have the same meanings as in the Law.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

11. These Regulations may be cited as the Firearms and Weapons (Exceptions, Exemptions and Defences) (Guernsey) Regulations, 2017.

^c Ordres en Conseil Vol. XIII, p. 355.

Commencement.

12. These Regulations come into force on the 1st November, 2017.

Dated this 9th-day of October, 2017

A handwritten signature in black ink that reads "Mary Lowe". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Deputy Mary Lowe
President of the Committee for Home Affairs
For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with defences, exceptions and exemptions in relation to offences in the Firearms and Weapons (Guernsey) Law, 1998 ("the Law").

Regulation 1 describes persons who may organise and hold historical re-enactments for the purposes of the defence specified in section 5A(2) of the Law.

Regulation 2 sets out a further defence to the offence of manufacturing, importing or selling realistic imitation firearms in section 5A(1) of the Law. This defence relates to making realistic imitation firearms available for the purposes of permitted activities (such as insured airsoft activities) or permitted events.

Regulation 3 places an evidential burden on a person seeking to establish a defence under regulation 2.

Regulations 4 and 5 make provision in connection with the definition of "**realistic imitation firearm**" in section 5B of the Law. These regulations specify the sizes and colours, respectively, which are to be regarded as unrealistic for an imitation firearm.

Regulation 6 specifies exceptions to the offence of carrying an air weapon or imitation firearm in a public place. These exceptions relate to over-18s or any over-12 club member carrying an air weapon or imitation firearm to or from club premises or shooting-permitted premises in a securely-fastened case.

Regulation 7 specifies an exception to the offence of sale or supply to, or possession by, an under-18 of air weapons or imitation firearms. This exception allows air weapons or imitation firearms to be sold or supplied to or possessed by an over-12

club member.

Regulation 8 specifies another exemption from the offence of supply to or possession by, an under-18 of air weapons or imitation firearms. This exemption allows an air weapon or imitation firearm to be lent to, or possessed by, an over-12 solely in order to enable its use under the personal supervision of an over-18 with reasonable safeguards in shooting-permitted premises.

Regulation 9 provides for an exemption similar to regulation 8 in relation to spearguns. Regulation 9 is an exemption from the offence of supply to or possession by, an under-18, of spearguns that are declared to be regulated weapons under the Firearms and Weapons (Guernsey) Ordinance, 2016. This exemption allows a speargun to be lent to, or possessed by, an over-12 solely in order to enable its use under the personal supervision of an over-18 with reasonable safeguards.

Regulation 10 is the interpretation provision. Regulations 11 and 12 are the citation and commencement provisions respectively.

These Regulations come into force on the 1st November, 2017.