



# Cluster Munitions (Prohibitions) Act 2010

## 2010 CHAPTER 11

### *Criminal proceedings*

#### **24 Consent to prosecution**

Proceedings for an offence under this Act may not be instituted—

- (a) in England and Wales, except by or with the consent of the Attorney General;
- (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.

#### **25 Forfeiture in case of conviction**

- (1) This section applies if a person is convicted of an offence under this Act.
- (2) The court by or before which the person is convicted may order that anything that is shown to the court's satisfaction to relate to the offence is to be—
  - (a) forfeited, and
  - (b) destroyed, or otherwise dealt with, in the manner specified in the order.
- (3) The court may order under subsection (2) that the forfeited item is to be dealt with as the Secretary of State sees fit.
- (4) If the court so orders, the powers of the Secretary of State include—
  - (a) the power to direct the destruction of the forfeited item, and
  - (b) the power to secure the disposal of the forfeited item in any other way that appears to the Secretary of State to be appropriate.
- (5) Subsection (6) applies where—
  - (a) the court proposes to order under subsection (2) that a thing be forfeited, and
  - (b) a person claiming to have an interest in it applies to be heard by the court.
- (6) The court must not make the order unless the person has been given an opportunity to show why it should not be made.

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*Changes to legislation: There are currently no known outstanding effects for the Cluster Munitions (Prohibitions) Act 2010, Cross Heading: Criminal proceedings. (See end of Document for details)*

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## **26 Offences by bodies corporate etc.**

- (1) Where an offence under this Act is committed by a body corporate and the offence is proved—
  - (a) to have been committed with the consent or connivance of an officer of the body corporate, or
  - (b) to be attributable to any neglect on the part of an officer of the body corporate, the officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) Where an offence under this Act is committed by a Scottish partnership and the offence is proved—
  - (a) to have been committed with the consent or connivance of a partner of the partnership, or
  - (b) to be attributable to any neglect on the part of a partner of the partnership, the partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (3) In this section—

“officer”, in relation to a body corporate, means—

  - (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity;

“partner”, in relation to a Scottish partnership, includes any person who was purporting to act as a partner of the partnership.
- (4) In subsection (3) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

**Changes to legislation:**

There are currently no known outstanding effects for the Cluster Munitions (Prohibitions) Act 2010, Cross Heading: Criminal proceedings.