
Changes to legislation: There are currently no known outstanding effects for the Cluster Munitions (Prohibitions) Act 2010, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 9(1) and (6)

OFFENCES TO WHICH SECTION 9 APPLIES

Specified offences

- 1 An offence under section 2(1)(e) or (g).
- 2 An offence under subsection (2) of section 2 of assisting, encouraging or inducing another person to engage in any conduct mentioned in paragraphs (a) or (e) to (g) of subsection (1) of that section.
- 3 An offence under Part 2 of the Serious Crime Act 2007 in relation to—
 - (a) an offence under section 2(1)(a) or (f), or
 - (b) an offence specified in this Schedule.
- 4 An offence committed by inciting the commission of—
 - (a) an offence under section 2(1)(a) or (f), or
 - (b) an offence specified in this Schedule.
- 5 An offence committed by aiding, abetting, counselling or procuring the commission of—
 - (a) an offence under section 2(1)(a) or (f), or
 - (b) an offence specified in this Schedule.
- 6 An offence of attempting to commit or conspiring to commit an offence specified in this Schedule.

Application of defence under section 9(1): offences relating to use or transfer

- 7 (1) This paragraph applies where a person is charged with—
 - (a) an offence under section 2(1)(g) (making arrangements under which another person transfers a prohibited munition),
 - (b) an offence specified in any of paragraphs 2 to 5 where the conduct constituting the offence relates to the use or transfer of a prohibited munition, or
 - (c) an offence specified in paragraph 6 where the conduct constituting the offence consists of attempting or conspiring to commit an offence mentioned in paragraph (a) or (b).
- (2) The defence under section 9(1) applies in relation to the offence only if the person also shows that—
 - (a) the use or transfer was (or was to be) only by members of the armed forces of a State that was not a party to the Convention or by other persons acting under the authority of such a State, or
 - (b) the person had reasonable cause to believe that the use or transfer was (or was to be) only as mentioned in paragraph (a).

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Application of defence under section 9(1): offences relating to conduct by visiting forces etc.

- 8 (1) The defence under section 9(1) does not apply where a person is charged with an offence under section 2(1)(e) if it is proved that, at the time of the conduct constituting the offence, the person was a member of a visiting force of a State that was not a party to the Convention or was working with such a force.
- (2) The defence under section 9(1) does not apply where a person is charged with an offence under section 2(1)(g) if it is proved that—
- (a) at the time of the conduct constituting the offence, the person was a member of a visiting force of a State that was not a party to the Convention or was working with such a force, and
 - (b) the conduct consisted of the person making arrangements under which a member of such a visiting force moves a prohibited munition into or from the United Kingdom or enters into a contract to move a prohibited munition into or from the United Kingdom.
- (3) The defence under section 9(1) does not apply where a person is charged with an offence specified in paragraphs 2 to 6 if it is proved that—
- (a) at the time of the conduct constituting the offence, the person was a member of a visiting force of a State that was not a party to the Convention or was working with such a force, and
 - (b) the conduct was related to anything to which sub-paragraph (4) applies.
- (4) This sub-paragraph applies to—
- (a) the possession of a prohibited munition by a member of a visiting force of a State that was not a party to the Convention or a person working with such a force,
 - (b) the movement of a prohibited munition into or from the United Kingdom by a member of such a visiting force,
 - (c) the entering into a contract by a member of such a visiting force to move a prohibited munition into or from the United Kingdom,
 - (d) the making of arrangements by a member of such a visiting force or a person working with such a force under which a member of such a force—
 - (i) moves a prohibited munition into or from the United Kingdom, or
 - (ii) enters into a contract to move a prohibited munition into or from the United Kingdom.
- (5) In this paragraph “member of a visiting force” and “person working with such a force” are to be construed in accordance with section 8.

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