



Landmines Act 1998

1998 CHAPTER 33

Offences relating to anti-personnel mines

2 Prohibited conduct.

- (1) Subject to sections 3 to 6, no person shall—
 - (a) use an anti-personnel mine;
 - (b) develop or produce an anti-personnel mine;
 - (c) participate in the acquisition of a prohibited object;
 - (d) have a prohibited object in his possession; or
 - (e) participate in the transfer of a prohibited object.
- (2) Subject to those sections, no person shall assist, encourage or induce any other person to engage in any conduct mentioned in subsection (1).
- (3) For the purposes of this Act a person participates in the acquisition of an object if—
 - (a) he acquires the object or enters into a contract to acquire it; or
 - (b) he makes arrangements under which another person either acquires the object or enters into a contract to acquire it.
- (4) For the purposes of this Act a person participates in the transfer of an object if—
 - (a) he transfers the object or enters into a contract to transfer it; or
 - (b) he makes arrangements under which another person either transfers the object or enters into a contract to transfer it.
- (5) References in this Act to transferring an object include references to disposing of the object and to delivering it to another person.
- (6) For the purposes of this Act—
 - (a) to acquire an object is to buy it, hire it, borrow it or accept it as a gift; and
 - (b) to dispose of an object is to sell it, let it on hire, lend it or give it.
- (7) For the purposes of this Act a person shall not be taken to acquire or dispose of a prohibited object by reason only of his acquisition or disposal of an interest in or right over land containing one or more emplaced anti-personnel mines.

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- (8) A person contravening this section is guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding fourteen years or to a fine, or to both.

Modifications etc. (not altering text)

- C1** S. 2(1)(2) extended (Guernsey) (11.11.2000) by [S.I. 2000/2769](#), **art. 2**
S. 2(1)(2) extended (Isle of Man) (11.11.2000) by [S.I. 2000/2770](#), **art. 2**

3 Application of prohibitions to places outside the UK.

- (1) Section 2(1) applies to conduct in the United Kingdom or elsewhere.
- (2) Section 2(2) applies to assistance, encouragement and inducements in the United Kingdom or elsewhere, and it so applies irrespective of whether the conduct assisted, encouraged or induced takes place, or (if it takes place) will take place, in the United Kingdom or elsewhere.
- (3) Subsections (1) and (2) of section 2, so far as they apply respectively to—
- (a) conduct outside the United Kingdom, and
 - (b) assistance, encouragement and inducements outside the United Kingdom,
- impose prohibitions only on United Kingdom nationals, Scottish partnerships and bodies incorporated under the law of a part of the United Kingdom.
- (4) Her Majesty may by Order in Council extend the application of subsections (1) and (2) of section 2, so far as they apply as mentioned in subsection (3), to bodies incorporated under the law of any of the Channel Islands, the Isle of Man or any colony.
- (5) For the purposes of this section a United Kingdom national is an individual who is—
- (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen;
 - (b) a person who under the ^{M1}British Nationality Act 1981 is a British subject; or
 - (c) a British protected person within the meaning of that Act.
- (6) Proceedings for an offence under section 2 committed outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the United Kingdom.

Marginal Citations

- M1** 1981 c. 61.

4 Conduct that is permitted.

- (1) In proceedings for an offence under section 2 it is a defence for the accused to prove that his conduct was prevented from being a contravention of that section by the provisions of this section.
- (2) It is not a contravention of section 2 for a person to participate in the transfer of a prohibited object if—

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- (a) he does so with the intention that it will be used only for purposes permitted by subsection (7); and
 - (b) the transfer in question is authorised by the Secretary of State for the purposes of this subsection.
- (3) It is not a contravention of section 2 for a person—
 - (a) to participate in the transfer of a prohibited object for the purpose only of enabling it to be destroyed; or
 - (b) to have such an object in his possession for the purpose only (with or without such a transfer) of securing its destruction.
- (4) It is not a contravention of section 2 for a person to have a prohibited object in his possession if—
 - (a) he has it in his possession with the intention that it will be used only for purposes permitted by subsection (7); and
 - (b) it is an object which the Secretary of State has authorised him for the purposes of this subsection to have in his possession.
- (5) It is not a contravention of section 2 for a person to participate in the acquisition of a prohibited object if—
 - (a) the acquisition that has been made, agreed or arranged is an acquisition by means of a transfer which is permitted by virtue of subsection (2) or (3); and
 - (b) he participates in that acquisition—
 - (i) with the intention that the object will be used only for purposes permitted by subsection (7); or
 - (ii) for the purpose (with or without a further transfer) of enabling the object to be destroyed.
- (6) It is not a contravention of section 2 for a person at any time to assist, encourage or induce any conduct if, at that time, he has reasonable cause to believe—
 - (a) that the conduct in question is conduct which is or will be prevented by the provisions of this section from being a contravention of section 2; or
 - (b) that it would be so prevented if it were not otherwise prevented from being such a contravention.
- (7) The purposes permitted by this subsection are—
 - (a) the development of techniques of mine detection, mine clearance or mine destruction;
 - (b) training in techniques of mine detection, mine clearance or mine destruction; and
 - (c) the purposes of any proceedings under this Act or of any criminal investigation or other criminal proceedings in which the object in question is or may be evidence.
- (8) No person shall be authorised by the Secretary of State for the purposes of subsection (2) or (4) to transfer, or to have in his possession, any prohibited objects of any description in numbers in excess of what is necessary for the purposes permitted by subsection (7).

5 International military operations.

- (1) A person is not guilty of a section 2 offence in respect of any conduct of his which—

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- (a) takes place in the course of, or for the purposes of, a military operation to which this section applies, or the planning of such an operation; and
 - (b) is not, and does not relate to, the laying of anti-personnel mines in contravention of the Ottawa Convention.
- (2) In proceedings for a section 2 offence in respect of any conduct it is a defence for the accused to prove that—
- (a) the conduct was in the course of, or for the purposes of, a military operation or the planning of a military operation;
 - (b) the conduct was not the laying of an anti-personnel mine;
 - (c) at the time of the conduct he believed, on reasonable grounds, that the operation was or would be an operation to which this section applies; and
 - (d) he did not suspect, and had no grounds for suspecting, that the conduct related to the laying of anti-personnel mines in contravention of the Ottawa Convention.
- (3) This section applies to a military operation if—
- (a) it takes place wholly or mainly outside the United Kingdom;
 - (b) it involves the participation both of members of Her Majesty’s armed forces and of members of the armed forces of a State other than the United Kingdom; and
 - (c) the operation is one in the course of which there is or may be some deployment of anti-personnel mines by members of the armed forces of one or more States that are not parties to the Ottawa Convention, but in the course of which such mines are not to be laid in contravention of that Convention.
- (4) If in any proceedings any question arises whether any actual or planned military operation involved the participation of any person, a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.
- (5) For the purposes of this section the laying of anti-personnel mines is to be taken to be in contravention of the Ottawa Convention in any circumstances other than those where the mines are laid by members of the armed forces of a State that is not a party to that Convention.
- (6) For the purposes of this section a State is a party to the Ottawa Convention if, under Article 16 of that Convention, that State has ratified, accepted or approved that Convention or has acceded to it and either—
- (a) that Convention is in force in relation to that State; or
 - (b) paragraph 1 of Article 1 of that Convention is being provisionally applied in relation to that State in accordance with Article 18.
- (7) In this section—
- “Her Majesty’s armed forces” means any of Her Majesty’s forces, within the meaning of the [F1Armed Forces Act 2006];
 - “military operation” includes any naval or air force operation; and
 - “operation” includes exercises and other activities.

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Textual Amendments

- F1** Words in s. 5(7) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 152](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

6 Other defences to offences under section 2.

- (1) In proceedings for an offence under section 2(1) (a), (c), (d) or (e) relating to any object it is a defence for the accused to prove that, at the time of the conduct in question, he neither knew nor suspected, nor had reason to suspect, that it was a prohibited object.
- (2) In proceedings for an offence under section 2(1) (c), (d) or (e) relating to a component of an anti-personnel mine it is a defence for the accused to prove either—
 - (a) that, at the time of the conduct in question, there was no proposal to use the component as part of an anti-personnel mine; or
 - (b) that, at that time, he neither knew nor suspected, nor had reason to suspect, that there was any proposal to use the component as part of an anti-personnel mine.
- (3) In proceedings for an offence under section 2(1)(d) relating to any object it is a defence for the accused to prove—
 - (a) that (having come to know or suspect while the object was in his possession that it was a prohibited object) he took all reasonable steps, as soon as reasonably practicable after he first had that knowledge or suspicion, to inform the Secretary of State, or a constable, of his knowledge or suspicion; or
 - (b) that he did not have any knowledge or suspicion that the object was a prohibited object, nor any reason for such a suspicion, until he became aware of the Secretary of State's exercise in the case of that object of a power conferred on the Secretary of State by this Act.
- (4) In proceedings for an offence under section 2(2) it is a defence for the accused to prove that, at the time when he assisted, encouraged or induced the conduct in question, he neither knew nor suspected, nor had reason to suspect, that the conduct related, or might relate, to a prohibited object.

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