



# Landmines Act 1998

## 1998 CHAPTER 33

### *Offences relating to anti-personnel mines*

#### **5 International military operations.**

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

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*Changes to legislation: There are currently no known outstanding effects for the Landmines Act 1998, Section 5. (See end of Document for details)*

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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 [F<sup>1</sup>Armed 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

**Changes to legislation:**

There are currently no known outstanding effects for the Landmines Act 1998, Section 5.