



# Cluster Munitions (Prohibitions) Act 2010

## 2010 CHAPTER 11

### *General*

#### **27 Safeguards etc. in connection with exercise of powers of entry**

- (1) A person who enters premises under an authorisation given under section 12(1) or 16(2) (“the authorised person”) must, if requested to do so by a person on the premises, produce evidence of the authorised person’s identity and entitlement to exercise the power.
- (2) Subsections (3) to (5) apply where a person (“the authorised person”) enters premises under a warrant issued under section 12(2), 16(4) or 21(1).
- (3) If the occupier of the premises is present, the authorised person must—
  - (a) produce evidence of the authorised person’s identity,
  - (b) produce a copy of the warrant, and
  - (c) supply the occupier with a copy.
- (4) If the occupier of the premises is not present, but another person appearing to the authorised person to be in charge of the premises is, subsection (3) applies as if any reference to the occupier were a reference to the person in charge of the premises.
- (5) If neither the occupier nor any other person appearing to the authorised person to be in charge of the premises is present, the authorised person must leave a copy of the warrant in a prominent place on the premises.
- (6) A person who enters premises under an authorisation given or warrant issued under section 12(1) or (2), 16(2) or (4) or 21(1) must do so at a reasonable hour unless it appears to the person that the purpose of entry would be frustrated by entry at a reasonable hour.
- (7) A person who enters premises which are unoccupied under an authorisation given or warrant issued under section 12(1) or (2), 16(2) or (4) or 21(1) must take all reasonable steps to ensure that the premises are left as secure against entry as they were when the person found them.

- (8) Subsections (2) to (6) do not apply where the authorised person is a constable who enters the premises under a warrant issued under section 12(2), 16(4) or 21(1).

## **28 Service of notices**

- (1) A notice required or authorised by this Act to be served on a person other than a Scottish partnership or a body corporate may be served by—
- (a) delivering it to the person, or
  - (b) sending it by post to the person at the person's usual or last-known residence, or usual or last-known place of business, in the United Kingdom.
- (2) A notice required or authorised by this Act to be served on a Scottish partnership may be served by—
- (a) delivering it to a partner of the partnership, or a person having control or management of the partnership business, at the principal office of the partnership, or
  - (b) sending it by post to such a partner or person at that office.
- (3) A notice required or authorised by this Act to be served on a body corporate may be served by—
- (a) delivering it to the secretary or clerk of the body corporate at its registered or principal office, or
  - (b) sending it by post to the secretary or clerk at the registered or principal office.
- (4) In the application of subsection (3) to a company registered outside the United Kingdom, the references to its principal office include references to its principal office within the United Kingdom (if any).

## **29 Power to modify Act**

- (1) The Secretary of State may by order made by statutory instrument make such modifications of this Act as the Secretary of State considers necessary or desirable to give effect to any amendment of the Convention made in pursuance of the provisions of the Convention.
- (2) An order under subsection (1) may also make such modifications of any other enactment (whenever passed or made) as the Secretary of State considers necessary or desirable in consequence of the modifications of this Act made by that order.
- (3) A statutory instrument containing an order under subsection (1) may not be made unless a draft of the statutory instrument has been laid before and approved by resolution of each House of Parliament.
- (4) In this section—
- “enactment” means a provision contained in, or in an instrument made under—
- (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament,
  - (c) a Measure or Act of the National Assembly for Wales, or
  - (d) Northern Ireland legislation;
- a “modification” includes an addition, repeal or revocation.

### **30 Interpretation**

- (1) In this Act—
- “acquisition”, “disposal” (except in clause 25(4)(b)), “transfer”, and related expressions, are to be construed in accordance with section 3;
  - “cluster munition”, “prohibited munition” and “relevant explosive bomblet” have the meanings given by section 1;
  - “the Convention” has the meaning given by section 1(2);
  - “premises” includes land, moveable structures, vehicles, vessels, aircraft and hovercraft.
- (2) For the purposes of this Act a cluster munition or a relevant explosive bomblet is to be taken to be destroyed if it is permanently prevented (by dismantling or any other means) from being used as a cluster munition or a relevant explosive bomblet.
- (3) For the purposes of this Act a State is a party to the Convention if it has ratified, accepted or approved the Convention, or has acceded to it, and either—
- (a) the Convention is in force in relation to the State, or
  - (b) the State is applying Article 1 of the Convention on a provisional basis in accordance with Article 18 of the Convention.

### **31 Amendments of other Acts**

Schedule 3 contains minor and consequential amendments of other Acts.

### **32 Crown application**

- (1) This Act binds the Crown.
- (2) No contravention by the Crown of a provision of this Act makes the Crown criminally liable.
- (3) Subsection (2) does not affect the criminal liability of persons in the service of the Crown.
- (4) The High Court or, in Scotland, the Court of Session may, on the application of a person appearing to the Court to have an interest, declare unlawful an act or omission of the Crown which constitutes a contravention of a provision of this Act.
- (5) Nothing in this section affects Her Majesty in her private capacity.
- (6) Subsection (5) is to be read as if section 38(3) of the Crown Proceedings Act 1947 (references to Her Majesty in her private capacity) were contained in this Act.

### **33 Extent**

- (1) Subject to the following provisions of this section, this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) An amendment made by this Act has the same extent as that of the provision amended.
- (3) Her Majesty may by Order in Council provide for any of the provisions of this Act to extend, with modifications (including additions or omissions) or without modifications, to any of the Channel Islands, the Isle of Man or any British overseas territory.

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*Status: This is the original version (as it was originally enacted).*

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### **34 Commencement and short title**

- (1) This Act comes into force on the day on which it is passed.
- (2) This Act may be cited as the Cluster Munitions (Prohibitions) Act 2010.