



# Cluster Munitions (Prohibitions) Act 2010

## 2010 CHAPTER 11

### *Information and records*

#### **20 Information and records for Convention purposes**

- (1) The Secretary of State may serve a notice on any person requiring the person to give such information as is described in the notice.
- (2) The information required to be given by a notice served under subsection (1)—
  - (a) must be information that the Secretary of State has reasonable cause to believe is or will be needed in connection with anything to be done for the purposes of the Convention;
  - (b) may relate to a state of affairs subsisting before the coming into force of this Act or the entry into force of the Convention.
- (3) A notice served under subsection (1) may specify—
  - (a) the form in which the information must be given;
  - (b) the period within which the information must be given.
- (4) The Secretary of State may also serve a notice on any person requiring the person to keep such records as are specified in the notice.
- (5) The records required to be kept by a notice served under subsection (4) must be records that the Secretary of State has reasonable cause to believe will facilitate the giving of information which that person may at any time be required to give under subsection (1).
- (6) The power conferred by subsection (1) may not be exercised so as to require a person to give information which might incriminate the person or, if that person is married or a civil partner, the person's spouse or civil partner.
- (7) The power conferred by subsection (1) may not be exercised so as to require a person to give information in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

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- (8) A person who without reasonable excuse fails to comply with a notice served under subsection (1) or (4) is guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to a fine.
- (9) A person on whom a notice is served under subsection (1) and who knowingly makes a false or misleading statement in response to it is guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

## **21 Power to search and obtain evidence: issue of warrant**

- (1) A justice of the peace may issue a warrant authorising a person acting under the authority of the Secretary of State to enter and search premises if the justice of the peace is satisfied, on information on oath, that either condition A or condition B is satisfied in relation to those premises.
- (2) Condition A is that there are reasonable grounds for suspecting that an offence under this Act is being, has been or is about to be committed on the premises.
- (3) Condition B is that there are reasonable grounds for suspecting that evidence of the commission of an offence under this Act is to be found on the premises.
- (4) An application for a warrant under this section—
  - (a) may be made by any person acting under the authority of the Secretary of State, and
  - (b) must specify the premises in respect of which the application is made.
- (5) A warrant issued under this section may authorise entry on one occasion only.
- (6) A warrant issued under this section—
  - (a) continues in force for the period of one month beginning with the date on which it was issued, and
  - (b) may be executed by any person acting under the authority of the Secretary of State.
- (7) In the application of subsection (1) to Scotland—
  - (a) the references to a justice of the peace are to be read as including references to the sheriff, and
  - (b) the reference to information on oath is to be read as a reference to evidence on oath.

## **22 Power to search and obtain evidence: supplementary**

- (1) A person authorised by a warrant issued under section 21 to enter premises may, if necessary, use force to enter the premises.
- (2) A person who enters premises under a warrant issued under section 21 may—
  - (a) take such other persons and such equipment on to the premises as appear to that person to be necessary;

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- (b) inspect any document found on the premises which the person has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Act;
  - (c) take copies of, or seize and remove, any such document;
  - (d) require information which is stored in an electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible (or from which it can readily be produced in a visible and legible form);
  - (e) take copies of, or seize and remove, anything produced in pursuance of paragraph (d) which the person has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Act;
  - (f) inspect, seize and remove any device or equipment found on the premises which the person has reasonable cause to believe may be required as such evidence;
  - (g) inspect, sample, seize and remove any substance found on the premises which the person has reasonable cause to believe may be required as such evidence.
- (3) Anything seized under subsection (2) may be retained for so long as is necessary in all the circumstances.
- (4) A person who seizes anything under subsection (2) must, if requested to do so by a person who occupied the premises at the time of the seizure or who had possession or control of the thing immediately before it was seized, provide a record of its seizure.
- (5) Subsection (2) does not authorise a person to take action in relation to anything in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in legal proceedings.
- (6) Subsection (7) applies where a constable enters premises—
  - (a) under a warrant issued under section 21, or
  - (b) by virtue of subsection (2)(a) of this section.
- (7) The constable may search any person found on the premises whom the constable has reasonable cause to believe to be in possession of any document, device, equipment or substance which may be required as evidence for the purposes of proceedings in respect of an offence under this Act.
- (8) No constable may, by virtue of subsection (7), search a person of the opposite sex.
- (9) A warrant issued under section 21 may provide that the person who exercises the powers conferred by the warrant may, if that person is not a constable, do so only in the presence of a constable.
- (10) A person who wilfully obstructs another in the exercise of any power under this section is guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to a fine.

## **23 Disclosure of information**

- (1) This section applies to information if—

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- (a) it was obtained under, or in connection with anything done under, this Act or the Convention, and
  - (b) it relates to a particular business or other activity carried on by any person.
- (2) So long as the business or activity continues to be carried on, the information must not be disclosed except—
  - (a) with the consent of the person for the time being carrying on the business or activity,
  - (b) in connection with anything done for the purposes of the Convention,
  - (c) in connection with anything done for the purposes of this Act,
  - (d) for any of the purposes specified in section 17(2)(a) to (d) of the Anti-terrorism, Crime and Security Act 2001 (disclosure related to criminal investigation or criminal proceedings),
  - (e) in connection with the enforcement of any restriction on imports or exports, or
  - (f) with a view to ensuring the security of the United Kingdom.
- (3) Section 18 of the Anti-terrorism, Crime and Security Act 2001 (restriction on disclosure of information for overseas purposes) has effect in relation to a disclosure authorised by subsection (2)(d) as it has effect in relation to a disclosure authorised by any of the provisions to which section 17 of that Act applies.
- (4) A person who discloses information in contravention of this section is guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (5) Where any of paragraphs (b) to (f) of subsection (2) applies, the information may be disclosed notwithstanding any obligation not to disclose it that would otherwise apply.

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