

## SCHEDULE 1

### PROVISIONS OF THE CHEMICAL WEAPONS ACT 1996 AS EXCEPTED, ADAPTED AND MODIFIED AND EXTENDED TO THE TERRITORIES LISTED IN SCHEDULE 3

#### *Chemical Weapons*

#### **Use etc of chemical weapons**

2.—(1) No person shall—

- (a) use a chemical weapon;
- (b) develop or produce a chemical weapon;
- (c) have a chemical weapon in his possession;
- (d) participate in the transfer of a chemical weapon;
- (e) engage in military preparations, or in preparations of a military nature, intending to use a chemical weapon.

(2) For the purposes of subsection (1)(a) an object is not a chemical weapon if the person uses the object for permitted purposes; and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(3) For the purposes of subsection (1)(b), (c), (d) or (e) an object is not a chemical weapon if the person does the act there mentioned with the intention that the object will be used only for permitted purposes; and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(4) For the purposes of subsection (1)(d) a person participates in the transfer of an object if—

- (a) he acquires or disposes of the object or enters into a contract to acquire or dispose of it, or
- (b) he makes arrangements under which another person acquires or disposes of the object or another person enters into a contract to acquire or dispose of it.

(5) For the purposes of subsection (4)—

- (a) to acquire an object is to buy it, hire it, borrow it or accept it as a gift;
- (b) to dispose of an object is to sell it, let it on hire, lend it or give it.

(6) In proceedings for an offence under subsection (1)(a), (c) or (d) relating to an object it is a defence for the accused to prove—

- (a) that he neither knew nor suspected nor had reason to suspect that the object was a chemical weapon, or
- (b) that he knew or suspected it to be a chemical weapon and as soon as reasonably practicable after he first so knew or suspected he took all reasonable steps to inform the Governor or a police officer of his knowledge or suspicion.

(7) Nothing in subsection (6) prejudices any defence which it is open to a person charged with an offence under this section to raise apart from that subsection.

(8) A person contravening this section is guilty of an offence and liable on conviction on indictment to imprisonment for life.

#### **Application of section 2**

3.—(1) Section 2 applies to acts done in the Territory or elsewhere.

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(2) So far as it applies to acts done outside the Territory, section 2 applies to United Kingdom nationals, and bodies incorporated under the law of the Territory.

(3) For the purposes of this section a United Kingdom national is an individual who is—

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981(1) is a British subject, or
- (c) a British protected person within the meaning of that Act.

(4) Proceedings for an offence committed under section 2 outside the Territory may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the Territory.

### **Suspicious objects**

4.—(1) If—

- (a) the Governor has grounds to suspect that an object is a chemical weapon, and
- (b) at least one person falls within subsection (2),

the Governor may serve on any person falling within that subsection a copy of a notice falling within subsection (3).

(2) The persons falling within this subsection are—

- (a) any person who appears to the Governor to have the object in his possession, and
- (b) any person not falling within paragraph (a) and who appears to the Governor to have an interest which the Governor believes is materially affected by the notice.

(3) A notice falling within this subsection is a notice which—

- (a) describes the object and states its location;
- (b) states that the Governor suspects that the object is a chemical weapon and gives the reasons for his suspicion;
- (c) states that he is considering whether to secure its destruction under sections 5 to 7;
- (d) states that any person may make representations that the object is not a chemical weapon;
- (e) states that a person on whom the notice is served and who has the object in his possession must not relinquish possession before a date specified in the notice.

### **Power to remove or immobilise objects**

5.—(1) If the Governor has reasonable cause to believe that—

- (a) an object is on premises to which the public has access or which are occupied by a person who consents to action being taken under this subsection, and
- (b) the object is a chemical weapon,

the Governor may authorise a person to enter the premises and to search them.

(2) If a justice of the peace is satisfied on information on oath that there is reasonable cause to believe that an object is on premises (of whatever nature) and that it is a chemical weapon, he may issue a warrant in writing authorising a person acting under the authority of the Governor to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

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(1) 1981 c. 61.

(3) A person who acts under an authorisation given under subsection (1) or (2) may take with him such other persons and such equipment as appear to him to be necessary.

(4) If a person enters premises under an authorisation given under subsection (1) or (2) and the object is found there he may make the object safe and—

- (a) he may seize and remove it if it is reasonably practicable to do so, or
- (b) he may in any other case affix a warning to the object or to something in a conspicuous position near the object, stating that the object is not to be moved or interfered with before a date specified in the warning.

(5) For the purposes of subsection (4) an object is made safe if, without being destroyed, it is prevented from being an immediate danger (as where a fuse is neutralised or the object is smothered in foam).

(6) The powers conferred on an authorised person under this section shall only be exercisable, if the authorisation under subsection (1) or the warrant so provides, in the presence of a police officer.

(7) This section applies whether or not any copy of a notice has been served under section 4.

### **Power to destroy removed objects**

**6.—(1)** This section applies if an object is removed from premises under section 5, and for the purposes of this section—

- (a) the first six-month period is the period of six months beginning with the day after the removal;
- (b) the second six-month period is the period of six months beginning with the day after the first six-month period ends.

(2) If at any time in the second six-month period the Governor decides that the object should be destroyed he may authorise a person to destroy it; but this is subject to subsections (3) to (5).

(3) If at any time in the first six-month period—

- (a) any person appears to the Governor to have had the object in his possession immediately before its removal, or
- (b) any person not falling within paragraph (a) appears to the Governor to have an interest which the Governor believes would be materially affected by the object's destruction,

the Governor must serve on such a person a copy of a notice falling within subsection (4).

(4) A notice falling within this subsection is a notice which—

- (a) describes the object and states its location;
- (b) states that the Governor proposes to secure its destruction and gives the reasons for his proposal;
- (c) states that the person on whom the copy of the notice is served may object to the Governor's proposal;
- (d) states that an objection (if made) must be made in writing to the Governor before such date as is specified in the notice and must state why the object should not be destroyed.

(5) Before he reaches a decision under subsection (2) the Governor must—

- (a) allow any person on whom a copy of a notice has been served under subsection (3) time to respond, and
- (b) take into account any objections to the object's proposed destruction (whether made in response to a notice or otherwise).

(6) If an object is removed from premises under section 5 and destroyed under this section the Governor may recover from a responsible person any costs reasonably incurred by the Governor

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in connection with the removal and destruction; and a responsible person is any person who had possession of the object immediately before its removal.

(7) If—

- (a) an object is removed from premises under section 5,
- (b) at the end of the second six-month period the Governor has not authorised the destruction of the object, and
- (c) a person had possession of the object immediately before its removal,

the Governor must return the object to the person mentioned in paragraph (c) or, if there is more than one, to such of them as the Governor thinks appropriate.

### **Power to enter premises and destroy objects**

7.—(1) This section applies if a warning has been affixed under section 5, and for the purposes of this section—

- (a) the first six-month period is the period of six months beginning with the day after the warning was affixed;
- (b) the second six-month period is the period of six months beginning with the day after the first six-month period ends.

(2) If at any time in the second six-month period the Governor decides that the object should be destroyed it may be destroyed as provided by subsections (6) to (9); but this is subject to subsections (3) to (5).

(3) If at any time in the first six-month period—

- (a) any person appears to the Governor to have had the object in his possession immediately before the warning was affixed, or
- (b) any person not falling within paragraph (a) appears to the Governor to have an interest which the Governor believes would be materially affected by the object's destruction,

the Governor must serve on such a person a copy of a notice falling within subsection (4).

(4) A notice falling within this subsection is a notice which—

- (a) describes the object and states its location;
- (b) states that the Governor proposes to secure its destruction and gives the reasons for his proposal;
- (c) states that the person on whom the copy of the notice is served may object to the Governor's proposal;
- (d) states that an objection (if made) must be made in writing to the Governor before such date as is specified in the notice and must state why the object should not be destroyed.

(5) Before he reaches a decision under subsection (2) the Governor must—

- (a) allow any person on whom a copy of a notice has been served under subsection (3) time to respond, and
- (b) take into account any objections to the object's proposed destruction (whether made in response to a notice or otherwise).

(6) If—

- (a) at any time in the second six-month period the Governor decides that the object should be destroyed, and
- (b) the object is on premises to which the public has access or which are occupied by a person who consents to action being taken under this subsection,

the Governor may authorise a person to enter the premises and to destroy the object if it is found there.

(7) If (whatever the nature of the premises concerned) a justice of the peace is satisfied on information on oath that a warning has been affixed under section 5, and that the Governor has decided at any time in the second six-month period that the object should be destroyed, he may issue a warrant in writing authorising a person acting under the authority of the Governor to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to destroy the object if it is found there.

(8) A person who acts under an authorisation given under subsection (6) or (7) may take with him such other persons and such equipment as appear to him to be necessary.

(9) The powers conferred on an authorised person under this section shall only be exercisable, if the authorisation under subsection (6) or the warrant so provides, in the presence of a police officer.

(10) Where an object is destroyed under this section the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the destruction; and a responsible person is any person who had possession of the object immediately before the warning was affixed under section 5.

### **Compensation for destruction**

8.—(1) This section applies if a person claims that—

- (a) an object has been destroyed under section 6 or 7,
- (b) he had an interest which was materially affected by the destruction and he sustained loss as a result, and
- (c) no copy of a notice was served on him under the section concerned (whether or not one was served on any other person).

(2) If the person concerned makes an application under this section to the supreme court of the Territory, and the court finds that his claim is justified, the court may order the Governor to pay to the applicant such amount (if any) by way of compensation as the court considers just.

(3) If the court believes that the object would have been destroyed even if a copy of a notice had been served on the applicant under the section concerned the court must not order compensation to be paid under this section.

### **Offences relating to destruction etc**

9.—(1) If—

- (a) a copy of a notice is served on a person under section 4,
- (b) the notice relates to an object in his possession at the time the copy is served,
- (c) he relinquishes possession before the date specified under section 4(3)(e), and
- (d) he has no reasonable excuse for so relinquishing possession,

he is guilty of an offence.

(2) If a person wilfully obstructs a person in—

- (a) entering or searching premises under an authorisation given under section 5(1) or (2) or 7(6) or (7),
- (b) making an object safe, seizing or removing an object, or affixing a warning, under section 5(4),
- (c) destroying an object under an authorisation given under section 6(2) or 7(6) or (7), or
- (d) attempting to do anything mentioned in paragraphs (a) to (c),

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the person so obstructing is guilty of an offence.

(3) If—

- (a) a warning is affixed under section 5(4),
- (b) a person interferes with the warning, or moves or interferes with the object before the date specified in the warning, and
- (c) he has no reasonable excuse for doing so,

he is guilty of an offence.

(4) A person guilty of an offence under any of the preceding provisions of this section is liable—

- (a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;
- (b) on conviction on indictment, to a fine.

(5) A person who knowingly makes a false or misleading statement in response to a copy of a notice served under section 4, 6 or 7 is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

### **Destruction etc: supplementary**

**10.**—(1) If an object is in the possession of a person who intends that it will be used only for permitted purposes, it is not a chemical weapon for the purposes of sections 4(1) and (3) and 5(1) and (2); and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(2) For the purposes of sections 4 to 9—

- (a) to the extent that an object consists of a toxic chemical or precursor, it is destroyed if it is permanently prevented from being used other than for permitted purposes;
- (b) to the extent that an object consists of a munition or other device designed to cause death or harm through toxic chemicals released by it, it is destroyed if it is permanently prevented from doing so;
- (c) to the extent that an object consists of equipment designed for use in connection with a munition or other device, it is destroyed if it is permanently prevented from being so used.

(3) In sections 5 to 9 “premises” includes land (including buildings), moveable structures, vehicles, vessels, aircraft and hovercraft.

(4) Nothing in sections 4 to 7 affects any power arising otherwise than by virtue of those sections (such as a power to dispose of property in police possession in connection with the investigation of a suspected offence).