SCHEDULE 1

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

Premises for producing chemical weapons etc

Premises or equipment for producing chemical weapons

11.—(1) No person shall—

(a) construct premises he intends to be used to produce chemical weapons;

(b) alter premises in circumstances where he intends that they will be used to produce chemical weapons;

(c) install or construct equipment he intends to be used to produce chemical weapons;

(d) alter equipment in circumstances where he intends that it will be used to produce chemical weapons;

(e) permit the construction on land he occupies of premises he intends to be used to produce chemical weapons;

(f) permit premises on land he occupies to be altered in circumstances where he intends that they will be used to produce chemical weapons;

(g) permit the installation or construction on land he occupies of equipment he intends to be used to produce chemical weapons;

(h) permit equipment on land he occupies to be altered in circumstances where he intends that it will be used to produce chemical weapons.

(2) For the purposes of subsection (1) an object is not a chemical weapon if the person intends 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.

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

Suspicious equipment or buildings

12.—(1) If—

(a) the Governor has grounds to suspect that any equipment or building is a chemical weapons production facility, 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 occupy the land on which the equipment or building is situated,

(b) if the Governor's suspicion relates to equipment, any person not falling within paragraph (a) and who appears to the Governor to have the equipment in his possession, and

(c) any person not falling within paragraph (a) or (b) 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 equipment or building and states its location;

(b) states that the Governor suspects that the equipment or building is a chemical weapons production facility and gives the reasons for his suspicion;

(c) states that he is considering whether to require the equipment or building to be destroyed or altered;

(d) states that any person may make representations that the equipment or building is not a chemical weapons production facility.

(4) If the notice relates to equipment it must state that a person on whom the notice is served and who has the equipment in his possession must not relinquish possession of or alter or use, the equipment before a date specified in the notice.

Notice requiring destruction or alteration

13.—(1) If—

(a) the Governor has reasonable cause to believe that any equipment or building is a chemical weapons production facility, and

(b) at least one person falls within subsection (2),

the Governor may serve on each 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 occupy the land on which the equipment or building is situated,

(b) if the Governor's belief relates to equipment, any person not falling within paragraph (a) and who appears to the Governor to have the equipment in his possession, and

(c) any person not falling within paragraph (a) or (b) and who appears to the Governor to have an interest which the Governor believes would be materially affected by the destruction or alteration of the equipment or building.

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

(a) describes the equipment or building and states its location;

(b) states that the Governor believes the equipment or building is a chemical weapons production facility;

(c) requires the equipment or building to be destroyed or altered (as the case may be) in a manner, and before a date, specified in the notice.

(4) If a notice under this section requires any equipment or building to be altered, a further notice under this section may—

(a) revoke the first notice, and

(b) require the equipment or building to be destroyed;

and the preceding provisions of this section shall apply to the further notice accordingly.

(5) This section applies whether or not any copy of a notice has been served under section 12.

Power where notice not complied with

14.—(1) For the purposes of this section the qualifying condition is that—

(a) a notice has been prepared under section 13,

(b) the provisions of section 13(1) to (3) have been complied with in relation to the notice,

(c) the notice has not been revoked, and

(d) any requirement set out in the notice has not been complied with.

(2) If a justice of the peace is satisfied on information on oath that the qualifying condition is fulfilled, he may issue a warrant in writing authorising a person acting under the authority of the Governor to take remedial action under this section.

(3) If a person is authorised by a warrant to take remedial action under this section he may—

(a) enter the land on which the equipment or building is situated, if necessary by force;

(b) do whatever is required to secure that the equipment or building is destroyed or altered in a manner specified in the notice;

(c) take with him such other persons and such equipment as appear to him to be necessary to help him to exercise the powers mentioned in paragraphs (a) and (b).

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

(5) If anything is done in exercise of the powers mentioned in this section, the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the exercise of those powers; and a responsible person is—

(a) in the case of equipment, any person in possession of the equipment at the time the land is entered;

(b) in the case of a building, any person occupying the land at the time it is entered.

Position where no notice can be served

15.—(1) For the purposes of this section the qualifying condition is that—

(a) the Governor has reasonable cause to believe that any equipment or building is a chemical weapons production facility,

(b) in the period of six months beginning with the day after he formed his belief it has not been possible to serve a copy of a notice under section 13 because of the circumstances mentioned in subsection (2), and

(c) the Governor has drawn up proposals for the destruction or alteration of the equipment or building in a manner specified in the proposals.

(2) The circumstances are that—

(a) no person appeared to the Governor to occupy the land on which the equipment or building is situated,

(b) if the Governor's belief relates to equipment, no person appeared to the Governor to have the equipment in his possession, and

(c) no person appeared to the Governor to have an interest which the Governor believed would be materially affected by the destruction or alteration of the equipment or building.

(3) If a justice of the peace is satisfied on information on oath that the qualifying condition is fulfilled, he may issue a warrant in writing authorising a person acting under the authority of the Governor to take remedial action under this section.

(4) If a person is authorised by a warrant to take remedial action under this section he may—

(a) enter the land on which the equipment or building is situated, if necessary by force;

(b) do whatever is required to secure that the equipment or building is destroyed or altered in a manner specified in the proposals drawn up by the Governor;

(c) take with him such other persons and such equipment as appear to him to be necessary to help him to exercise the powers mentioned in paragraphs (a) and (b).

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

(6) If anything is done in exercise of the powers mentioned in this section, the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the exercise of those powers; and a responsible person is—

(a) in the case of equipment, any person in possession of the equipment at the time the land is entered;

(b) in the case of a building, any person occupying the land at the time it is entered.

Compensation for destruction or alteration

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

(a) any equipment or building has been destroyed or altered in compliance with a notice falling within section 13(3) or has been destroyed or altered under section 14,

(b) he had an interest which was materially affected by the destruction or alteration and he sustained loss as a result, and

(c) no copy of a notice was served on him under section 13.

(2) This section also applies if a person claims that—

(a) any equipment or building has been destroyed or altered under section 15, and

(b) he had an interest which was materially affected by the destruction or alteration and he sustained loss as a result.

(3) 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.

(4) If the court believes that the equipment or building would have been destroyed or altered even if a copy of a notice had been served on the applicant under section 13 the court must not order compensation to be paid under this section.

Offences relating to destruction etc

17.—(1) If—

(a) a copy of a notice is served on a person under section 12,

(b) the notice relates to equipment in his possession at the time the copy is served,

(c) he relinquishes possession of, or alters or uses, the equipment before the date specified under section 12(4), and

(d) he has no reasonable excuse for doing so,

he is guilty of an offence.

(2) If—

(a) a copy of a notice is served on a person under section 13,

(b) the notice relates to equipment in his possession at the time the copy is served or to a building situated on land he occupies at that time,

(c) any requirement set out in the notice is not fulfilled, and

(d) he has no reasonable excuse for the requirement not being fulfilled,

he is guilty of an offence.

(3) If a person wilfully obstructs—

(a) a person exercising, or attempting to exercise, the powers mentioned in section 14(3)(a) or (b) or 15(4)(a) or (b), or

(b) any other person taken with him as mentioned in section 14(3)(c) or 15(4)(c) and helping him, or attempting to help him, to exercise those powers,

the person so obstructing 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 notice served under section 12 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

18.—(1) In sections 12 to 15 "chemical weapons production facility" has the meaning given by the definition of that expression in the Convention, and for this purpose—

(a) expressions used in the definition in the Convention shall be construed in accordance with the Convention, and

(b) section 1 shall be ignored.

(2) For the purposes of sections 12 to 16 "destroyed" and "destruction", in relation to a building, mean demolished and demolition.

(3) Nothing in sections 12 to 15 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).