



Landmines Act 1998

1998 CHAPTER 33

Securing the destruction of anti-personnel mines

7 Suspicious objects.

(1) If—

- (a) the Secretary of State has grounds to suspect that an object is a prohibited object, and
- (b) it does not appear to him that the only persons in possession of that object are persons whose possession of the object is prevented from being a contravention of section 2 by the provisions of section 4,

the Secretary of State may serve a copy of a notice falling within subsection (2) on any person falling within subsection (3).

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

- (a) describes the object and states its location;
- (b) states that the Secretary of State suspects that the object is a prohibited object and gives the reasons for his suspicion;
- (c) states that he is considering whether to secure its destruction under sections 8 to 10;
- (d) states that any person may make representations that the object is not a prohibited object or is lawfully in his possession; and
- (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.

(3) The persons falling within this subsection are—

- (a) any person who appears to the Secretary of State to have the object in his possession; and
- (b) any person not falling within paragraph (a) who appears to the Secretary of State to have an interest which the Secretary of State believes will be materially affected by the service of the notice.

*Changes to legislation: There are currently no known outstanding effects for the Landmines Act 1998,
Cross Heading: Securing the destruction of anti-personnel mines. (See end of Document for details)*

8 Power to remove or immobilise objects.

- (1) If the Secretary of State has reasonable cause to believe—
- (a) that 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 section,
 - (b) that the object is a prohibited object, and
 - (c) that the case is not one where the only persons in possession of that object are persons whose possession of the object is prevented from being a contravention of section 2 by the provisions of section 4,
- the Secretary of State may authorise a person to enter the premises and to search them.
- (2) If (whatever the nature of the premises concerned)—
- (a) a justice of the peace is satisfied, on information on oath, that there is reasonable cause to believe that there are grounds for issuing a warrant under this subsection in relation to any premises, or
 - (b) in Scotland, a justice (within the meaning of section 307 of the ^{M1}Criminal Procedure (Scotland) Act 1995) is so satisfied by evidence on oath,
- he may issue a warrant in writing authorising a person acting under the authority of the Secretary of State 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.
- (3) There are grounds for issuing a warrant under subsection (2) in relation to any premises if—
- (a) a prohibited object is on the premises; and
 - (b) the case is not one where the only persons in possession of that object are persons whose possession of the object is prevented from being a contravention of section 2 by the provisions of section 4.
- (4) A person who acts under an authorisation or warrant under subsection (1) or (2) may take with him such other persons and such equipment as appear to him to be necessary.
- (5) Subject to subsection (6), if a person enters premises under an authorisation or warrant under subsection (1) or (2) and a prohibited 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 in a conspicuous position to something near the object, stating that the object is not to be moved or interfered with before the date specified in the warning.
- (6) A person shall not exercise the powers conferred by subsection (5) if he is satisfied—
- (a) that the object is in the possession of one or more persons; and
 - (b) that that person, or each of those persons, is a person whose possession of the object is prevented from being a contravention of section 2 by the provisions of section 4.
- (7) For the purposes of subsection (5) an object is made safe if, without being destroyed, it is prevented from being an immediate danger (by the disconnection of a detonator or otherwise).
- (8) If the authorisation or warrant so provides, the powers conferred on any person by an authorisation or warrant under subsection (1) or (2) shall be exercisable only in the presence of a constable.

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

Marginal Citations

M1 1995 c. 46.

9 Power to destroy removed objects.

- (1) This section applies if an object is removed from premises under section 8, 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; and
 - (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 first six-month period—
- (a) any person appears to the Secretary of State to have had the object in his possession immediately before its removal, or
 - (b) any person not falling within paragraph (a) appears to the Secretary of State to have an interest which the Secretary of State believes would be materially affected by the object's destruction,
- the Secretary of State must serve on that person a copy of a notice falling within subsection (3).
- (3) A notice falling within this subsection is a notice which—
- (a) describes the object and states its location;
 - (b) states that the Secretary of State 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 Secretary of State's proposal; and
 - (d) states that an objection (if made)—
 - (i) must be made in writing to the Secretary of State before such date as is specified in the notice; and
 - (ii) must state why the object should not be destroyed.
- (4) If at any time in the second six-month period the Secretary of State decides that the object should be destroyed, he may authorise a person to destroy it.
- (5) Before he reaches a decision under subsection (4) the Secretary of State must—
- (a) allow any person on whom a copy of a notice has been served under subsection (2) 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 8 and destroyed under this section, the Secretary of State may recover from any person who had possession of the object immediately before its removal any costs reasonably incurred by the Secretary of State in connection with the removal and destruction.
- (7) If—

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- (a) an object is removed from premises under section 8,
 - (b) at the end of the second six-month period the Secretary of State has not authorised the destruction of the object, and
 - (c) a person had possession of the object immediately before its removal,
- the Secretary of State must return the object to the person mentioned in paragraph (c) or, if there is more than one, to such of them as the Secretary of State thinks appropriate.

10 Power to enter premises and destroy objects.

- (1) This section applies if a warning has been affixed under section 8, and for the purposes of this section—
- (a) the first six months of the warning is the period of six months beginning with the day after the warning was affixed; and
 - (b) the second six months of the warning is the period of six months beginning with the day after the first six months of the warning ends.
- (2) If at any time in the first six months of the warning—
- (a) any person appears to the Secretary of State 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 Secretary of State to have an interest which the Secretary of State believes would be materially affected by the object's destruction,
- the Secretary of State must serve on that person a copy of a notice falling within subsection (3).
- (3) A notice falling within this subsection is a notice which—
- (a) describes the object and states its location;
 - (b) states that the Secretary of State 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 Secretary of State's proposal; and
 - (d) states that an objection (if made)—
 - (i) must be made in writing to the Secretary of State before such date as is specified in the notice; and
 - (ii) must state why the object should not be destroyed.
- (4) If at any time in the second six months of the warning the Secretary of State decides that the object should be destroyed, it may be destroyed as provided by subsections (6) to (10).
- (5) Before he reaches a decision under subsection (4) the Secretary of State must—
- (a) allow any person on whom a copy of a notice has been served under subsection (2) 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 months of the warning the Secretary of State decides that the object should be destroyed, and

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- (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 Secretary of State 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) a justice of the peace is satisfied, on information on oath, that a decision of the Secretary of State for the destruction of an object provides grounds for issuing a warrant in relation to any premises, or
- (b) in Scotland, a justice (within the meaning of section 307 of the ^{M2}Criminal Procedure (Scotland) Act 1995) is so satisfied by evidence on oath, he may issue a warrant in writing authorising a person acting under the authority of the Secretary of State 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) For the purposes of subsection (7) a decision of the Secretary of State for the destruction of an object provides grounds for issuing a warrant in relation to any premises if—
- (a) the premises are premises where a warning has been affixed under section 8 as respects any object; and
- (b) the Secretary of State has decided, at any time in the second six months of the warning, that the object should be destroyed.
- (9) A person who acts under an authorisation or warrant under subsection (6) or (7) may take with him such other persons and such equipment as appear to him to be necessary.
- (10) If the authorisation or the warrant so provides, the powers conferred on any person by an authorisation or warrant under subsection (6) or (7) shall be exercisable only in the presence of a constable.
- (11) Where an object is destroyed under this section the Secretary of State may recover, from any person who had possession of the object immediately before the warning was affixed under section 8, any costs reasonably incurred by the Secretary of State in connection with the destruction.

Marginal Citations

M2 1995 c. 46.

11 Compensation for destruction.

- (1) This section applies if a person claims that—
- (a) an object has been destroyed under section 9 or 10;
- (b) he had an interest which was materially affected by the destruction;
- (c) he sustained loss as a result of the destruction; and
- (d) 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—
- (a) the person concerned makes an application under this section to the High Court or, in Scotland, the Court of Session, and

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(b) the Court finds that his claim is justified,
the Court may order the Secretary of State 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.

12 Offences relating to destruction etc.

(1) A person is guilty of an offence if—

- (a) a copy of a notice has been served on him under section 7;
- (b) the notice related to an object in his possession at the time the copy was served;
- (c) he relinquishes possession of the object before the date specified under
section 7(2)(e); and
- (d) he has no reasonable excuse for so relinquishing possession.

(2) A person is guilty of an offence if he wilfully obstructs another in the doing by that
other of any of the following—

- (a) entering or searching premises under an authorisation given or warrant issued
under section 8(1) or (2) or 10(6) or (7);
- (b) making an object safe, seizing or removing an object, or affixing a warning,
under section 8(5);
- (c) destroying an object under an authorisation given under section 9(4) or 10(6)
or (7);
- (d) attempting to do anything mentioned in paragraphs (a) to (c).

(3) A person is guilty of an offence if—

- (a) a warning relating to an object has been affixed under section 8(5);
- (b) he interferes with the warning or, before the date specified in the warning,
moves or interferes with the object; and
- (c) he has no reasonable excuse for doing so.

(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 of an amount not exceeding the statutory
maximum;
- (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 7, 9 or 10 is guilty of an offence and liable—

- (a) on summary conviction, to a fine of an amount not exceeding the statutory
maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two
years or to a fine or to both.

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