
Changes to legislation: There are currently no known outstanding effects for the Cluster Munitions (Prohibitions) Act 2010. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Sections 1(6), 3(7) and 6(10)

DEFINITIONS OF CLUSTER MUNITION, EXPLOSIVE BOMBLET ETC.

Definition of cluster munition and related terms

Article 2.2. “Cluster munition” means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:

- (a) A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
- (b) A munition or submunition designed to produce electrical or electronic effects;
- (c) A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:
 - (i) Each munition contains fewer than ten explosive submunitions;
 - (ii) Each explosive submunition weighs more than four kilograms;
 - (iii) Each explosive submunition is designed to detect and engage a single target object;
 - (iv) Each explosive submunition is equipped with an electronic self-destruction mechanism;
 - (v) Each explosive submunition is equipped with an electronic self-deactivating feature.

Article 2.3. “Explosive submunition” means a conventional munition that in order to perform its task is dispersed or released by a cluster munition and is designed to function by detonating an explosive charge prior to, on or after impact.

Article 2.5. “Unexploded submunition” means an explosive submunition that has been dispersed or released by, or otherwise separated from, a cluster munition and has failed to explode as intended.

Article 2.9. “Self-destruction mechanism” means an incorporated automatically-functioning mechanism which is in addition to the primary initiating mechanism of the munition and which secures the destruction of the munition into which it is incorporated.

Article 2.10. “Self-deactivating” means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example a battery, that is essential to the operation of the munition.

Definition of explosive bomblet

Article 2.13. “Explosive bomblet” means a conventional munition, weighing less than 20 kilograms, which is not self-propelled and which, in order to perform its task, is dispersed or released by a dispenser, and is designed to function by detonating an explosive charge prior to, on or after impact.

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Definition of dispenser

Article 2.14. “Dispenser” means a container that is designed to disperse or release explosive bomblets and which is affixed to an aircraft at the time of dispersal or release.

Definition of mine

Article 2.12. “Mine” means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle.

Definition of cluster munition remnants and related terms

Article 2.7. “Cluster munition remnants” means failed cluster munitions, abandoned cluster munitions, unexploded submunitions and unexploded bomblets.

Article 2.4. “Failed cluster munition” means a cluster munition that has been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released its explosive submunitions but failed to do so.

Article 2.5. “Unexploded submunition” means an explosive submunition that has been dispersed or released by, or otherwise separated from, a cluster munition and has failed to explode as intended.

Article 2.6. “Abandoned cluster munitions” means cluster munitions or explosive submunitions that have not been used and that have been left behind or dumped, and that are no longer under the control of the party that left them behind or dumped them. They may or may not have been prepared for use.

Article 2.15. “Unexploded bomblet” means an explosive bomblet that has been dispersed, released or otherwise separated from a dispenser and has failed to explode as intended.

SCHEDULE 2

Section 9(1) and (6)

OFFENCES TO WHICH SECTION 9 APPLIES

Specified offences

- 1 An offence under section 2(1)(e) or (g).
- 2 An offence under subsection (2) of section 2 of assisting, encouraging or inducing another person to engage in any conduct mentioned in paragraphs (a) or (e) to (g) of subsection (1) of that section.
- 3 An offence under Part 2 of the Serious Crime Act 2007 in relation to—
 - (a) an offence under section 2(1)(a) or (f), or
 - (b) an offence specified in this Schedule.
- 4 An offence committed by inciting the commission of—
 - (a) an offence under section 2(1)(a) or (f), or
 - (b) an offence specified in this Schedule.

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- 5 An offence committed by aiding, abetting, counselling or procuring the commission of—
- (a) an offence under section 2(1)(a) or (f), or
 - (b) an offence specified in this Schedule.
- 6 An offence of attempting to commit or conspiring to commit an offence specified in this Schedule.

Application of defence under section 9(1): offences relating to use or transfer

- 7 (1) This paragraph applies where a person is charged with—
- (a) an offence under section 2(1)(g) (making arrangements under which another person transfers a prohibited munition),
 - (b) an offence specified in any of paragraphs 2 to 5 where the conduct constituting the offence relates to the use or transfer of a prohibited munition, or
 - (c) an offence specified in paragraph 6 where the conduct constituting the offence consists of attempting or conspiring to commit an offence mentioned in paragraph (a) or (b).
- (2) The defence under section 9(1) applies in relation to the offence only if the person also shows that—
- (a) the use or transfer was (or was to be) only by members of the armed forces of a State that was not a party to the Convention or by other persons acting under the authority of such a State, or
 - (b) the person had reasonable cause to believe that the use or transfer was (or was to be) only as mentioned in paragraph (a).

Application of defence under section 9(1): offences relating to conduct by visiting forces etc.

- 8 (1) The defence under section 9(1) does not apply where a person is charged with an offence under section 2(1)(e) if it is proved that, at the time of the conduct constituting the offence, the person was a member of a visiting force of a State that was not a party to the Convention or was working with such a force.
- (2) The defence under section 9(1) does not apply where a person is charged with an offence under section 2(1)(g) if it is proved that—
- (a) at the time of the conduct constituting the offence, the person was a member of a visiting force of a State that was not a party to the Convention or was working with such a force, and
 - (b) the conduct consisted of the person making arrangements under which a member of such a visiting force moves a prohibited munition into or from the United Kingdom or enters into a contract to move a prohibited munition into or from the United Kingdom.
- (3) The defence under section 9(1) does not apply where a person is charged with an offence specified in paragraphs 2 to 6 if it is proved that—
- (a) at the time of the conduct constituting the offence, the person was a member of a visiting force of a State that was not a party to the Convention or was working with such a force, and
 - (b) the conduct was related to anything to which sub-paragraph (4) applies.
- (4) This sub-paragraph applies to—

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- (a) the possession of a prohibited munition by a member of a visiting force of a State that was not a party to the Convention or a person working with such a force,
 - (b) the movement of a prohibited munition into or from the United Kingdom by a member of such a visiting force,
 - (c) the entering into a contract by a member of such a visiting force to move a prohibited munition into or from the United Kingdom,
 - (d) the making of arrangements by a member of such a visiting force or a person working with such a force under which a member of such a force—
 - (i) moves a prohibited munition into or from the United Kingdom, or
 - (ii) enters into a contract to move a prohibited munition into or from the United Kingdom.
- (5) In this paragraph “member of a visiting force” and “person working with such a force” are to be construed in accordance with section 8.

SCHEDULE 3

Section 31

AMENDMENTS OF OTHER ACTS

Criminal Justice and Police Act 2001 (c. 16)

- 1 In Schedule 1 to the Criminal Justice and Police Act 2001 (powers of seizure), at the end of Part 1 (powers to which section 50 applies) insert—

“Cluster Munitions (Prohibitions) Act 2010 (c. 11)

- 73M Each of the powers of seizure conferred by the provisions of section 22(2)(c), (e), (f) and (g) of the Cluster Munitions (Prohibitions) Act 2010 (seizure of evidence of offences under that Act).”

Serious Crime Act 2007 (c. 27)

- 2 In Schedule 3 to the Serious Crime Act 2007 (listed offences that are to be disregarded), at the end of Part 1 (offences common to England and Wales and Northern Ireland) insert—

“Cluster Munitions (Prohibitions) Act 2010 (c. 11)

- 24A An offence under section 2(2) of the Cluster Munitions (Prohibitions) Act 2010 (assisting, encouraging or inducing another to engage in conduct mentioned in section 2(1) of that Act).”

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