



# Cluster Munitions (Prohibitions) Act 2010

## 2010 CHAPTER 11

### *Defences*

#### **6 Other purposes permitted by Convention**

- (1) It is a defence for a person (P) charged with an offence under section 2(1)(e) to show that—
  - (a) P had the prohibited muniton in P's possession with the intention that it would be used only for permitted purposes, and
  - (b) P's possession of the prohibited muniton was in accordance with the terms of an authorisation given to P by the Secretary of State.
- (2) It is a defence for a person (P) charged with an offence under section 2(1)(f) to show that—
  - (a) P transferred the prohibited muniton with the intention that it would be used only for permitted purposes, and
  - (b) the transfer was in accordance with the terms of an authorisation given to P by the Secretary of State.
- (3) It is a defence for a person (P) charged with an offence under section 2(1)(g) to show that—
  - (a) P made the arrangements for the transfer of the prohibited muniton with the intention that it would be used only for permitted purposes, and
  - (b) the Secretary of State had authorised the transfer.
- (4) It is a defence for a person (P) charged with an offence under section 2(1)(c) to show that—
  - (a) the acquisition of the prohibited muniton was by means of a transfer which had been authorised by the Secretary of State, and
  - (b) P acquired the prohibited muniton with the intention that it would be used only for permitted purposes.
- (5) It is a defence for a person (P) charged with an offence under section 2(1)(d) to show that—

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- (a) at the time when P made the arrangements for the acquisition of the prohibited munition, P had reasonable cause to believe that the acquisition would be by means of a transfer which had been authorised by the Secretary of State, and
  - (b) P made the arrangements with the intention that the prohibited munition would be used only for permitted purposes.
- (6) It is a defence for a person (P) charged with an offence under section 2(2) of assisting, encouraging or inducing any other person to engage in any conduct to show that, at the time of the assistance, encouragement or inducement, P had reasonable cause to believe that the other person would have a defence in respect of the conduct by virtue of any of subsections (1) to (5).
- (7) The Secretary of State may not, for the purposes of this section, authorise the possession or transfer of prohibited munitions in numbers in excess of what is necessary for permitted purposes.
- (8) For the purposes of this section the following are “permitted purposes”—
  - (a) the development of, and training in, techniques for the detection, clearance or destruction of cluster munitions, explosive submunitions and relevant explosive bomblets,
  - (b) the development of counter-measures in respect of cluster munitions, explosive submunitions and relevant explosive bomblets, and
  - (c) the purposes of any proceedings under this Act, or of any criminal investigation or other criminal proceedings (whether in the United Kingdom or elsewhere), in which the prohibited munition is or may be evidence.
- (9) In subsection (8) “explosive submunition” has the same meaning as in the Convention.
- (10) Schedule 1 sets out the definition of “explosive submunition” given by Article 2 of the Convention (as a term related to the definition of “cluster munition”).

**Changes to legislation:**

There are currently no known outstanding effects for the Cluster Munitions (Prohibitions) Act 2010, Section 6.