



# Cluster Munitions (Prohibitions) Act 2010

## 2010 CHAPTER 11

### *Defences*

#### **9 International military operations and activities**

- (1) It is a defence for a person charged with an offence specified in any of paragraphs 1 to 6 of Schedule 2 to show that the person's conduct took place in the course of, or for the purposes of, an international military operation or an international military co-operation activity.
- (2) A military operation is an international military operation if—
  - (a) both members of Her Majesty's armed forces and members of the armed forces of one or more States other than the United Kingdom participate in the operation,
  - (b) at least one of the other States is not a party to the Convention, and
  - (c) the operation involves or might involve conduct by members of the armed forces of a State that is not a party to the Convention, or by other persons acting under the authority of such a State, which would be in contravention of the Convention if it were conduct by members of the armed forces of a State that is a party to the Convention or by other persons acting under the authority of such a State.
- (3) An activity is an international military co-operation activity if—
  - (a) it is an activity, other than a military operation, undertaken in pursuance of co-operation between the government of the United Kingdom and the government of one or more States other than the United Kingdom for any purpose related to—
    - (i) the defence of the United Kingdom or any of those States, or
    - (ii) Her Majesty's armed forces or the armed forces of any of those States,
  - (b) at least one of the other States is not a party to the Convention, and
  - (c) the activity involves or might involve conduct by members of the armed forces of a State that is not a party to the Convention, or by other persons acting under the authority of such a State, which would be in contravention of the Convention if it were conduct by members of the armed forces of a State that

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**Changes to legislation:** There are currently no known outstanding effects for the Cluster Munitions (Prohibitions) Act 2010, Section 9. (See end of Document for details)

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is a party to the Convention or by other persons acting under the authority of such a State.

- (4) Subsection (5) applies if a question arises in any proceedings as to whether—
  - (a) subsection (2)(a) applies in relation to a military operation, or
  - (b) subsection (3)(a) applies in relation to an activity.
- (5) A certificate issued by or under the authority of the Secretary of State stating any fact relating to that question is conclusive evidence of that fact.
- (6) Paragraphs 7 and 8 of Schedule 2 make further provision about the application of the defence under subsection (1) in relation to particular offences specified in that Schedule.
- (7) In this section—
  - “Her Majesty's armed forces” means any of Her Majesty's forces within the meaning of the Armed Forces Act 2006;
  - “military operation” includes any naval or air force operation.

**Changes to legislation:**

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