

OFFICIAL BULLETIN

COUNTRY ORDINANCE of 21 April 1997 to implement the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, with annexes, as concluded in Paris on 13 January 1993 (Chemical Weapons Convention Implementation Ordinance).

IN THE NAME OF THE QUEEN!

THE GOVERNOR of the Netherlands Antilles,

Having taken into account:

that it is necessary to lay down rules for the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction;

having heard the Council of State and in consultation with Parliament, has adopted the following Country Ordinance:

**Chapter 1  
DEFINITIONS**

Article 1

In this Country Ordinance and the provisions based on it, the following definitions apply:

- (a) Convention: the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, with annexes, as concluded in Paris on 13 January 1993;
- (b) Minister: the Minister of Health and Environmental Protection;
- (c) chemical: chemical elements and their compounds, as arising naturally or through production, including the additives required to preserve the stability of the product and impurities resulting from the production process;

purpose of verifying compliance with the Convention;

- (n) international challenge inspection: an inspection within the meaning of article IX, paragraph 8, of the Convention, for the purpose of verifying compliance with the Convention;
- (o) international inspection team: inspectors and assistant inspectors assigned by the Director-General of the Organisation for the Prohibition of Chemical Weapons to conduct an international routine or challenge inspection;
- (p) escort team: the officials appointed by the Minister to support the international inspection team.

## Chapter 2 CHEMICAL WEAPONS, CHEMICALS AND CHEMICAL PRODUCTION FACILITIES

### § 1. Prohibitions

#### Article 2

1. The development, production, acquisition by other means, stockpiling, retention, transfer and use of chemical weapons are prohibited.
2. The development, production, acquisition, stockpiling, retention, transfer and use of toxic chemicals, including their precursors, for the purpose of developing, producing, acquiring by other means, stockpiling, retention, transferring or using chemical weapons are prohibited.

#### Article 3

1. The development, production, acquisition, stockpiling, retention, transfer and use of the chemicals referred to in article VI, paragraph 3, of the Convention are prohibited.
2. Paragraph 1 does not apply to the production of chemicals in laboratories in quantities of less than 100 grams per year per facility, if such chemicals are intended for research, medical or pharmaceutical purposes.
3. Paragraph 1 also does not apply to the development, production, acquisition, stockpiling, retention, transfer and use of the chemicals for research, medical, pharmaceutical or protective purposes at a facility designated by the Minister.
4. The Minister may grant dispensation from the prohibition contained in subsection 1 for:
  - (a) the production, acquisition, stockpiling, retention and use of the chemicals for research, medical or pharmaceutical purposes at a

paragraph 1 shall notify Our Minister of the imported and exported quantities, stating the country of origin or destination.

#### Article 6

Any person operating a facility as referred to in article VI, paragraph 6, of the Convention, at which chemicals as referred to in part I, paragraph 4, of the Verification Annex to the Convention are produced in quantities as indicated by Country Decree containing general measures shall provide Our Minister with the information designated by Country Decree containing general measures. The designated information shall include the information referred to in part IX, paragraphs 4 to 6, of the Verification Annex to the Convention.

#### Article 7

Any person who has submitted a declaration in accordance with articles 4 to 6 shall keep the information referred to in those articles for at least ten years following the submission of the declaration.

#### Article 8

Further rules for the implementation of the provisions of paragraphs 3 to 6 shall be laid down by or pursuant to Country Decree containing general measures.

### **Chapter 3 PENALTIES AND SUPERVISION**

#### Article 9

1. A breach of the prohibition referred to in article 2, paragraphs 1 and 2, and article 3, paragraph 1, shall, if committed intentionally, be an indictable offence and carry either a sentence of imprisonment not exceeding six years or a fine not exceeding five hundred thousand guilders or both.
2. A breach of the prohibition referred to in article 2, paragraphs 1 and 2, and article 3, paragraph 1, shall, if not committed intentionally, be a summary offence and carry either a sentence of detention not exceeding one year or a fine not exceeding one hundred thousand guilders or both.

#### Article 10

Acting in breach of one of the regulations laid down by or pursuant to articles 4 to 8, article 14, paragraph 1, or article 15, paragraph 3, is a summary offence and carries either a sentence of detention not exceeding six months or a fine not exceeding fifty thousand guilders or both.

- (c) the purposes for which the chemicals were or will be produced.
4. This article shall not apply to mixtures containing a low concentration of schedule 3 chemicals.

#### Article 7

1. Any person operating a facility as referred to in article 6 of the Country Ordinance, which during the previous calendar year:
- (a) produced by synthesis more than 200 tonnes of discrete organic chemicals not listed in schedule 1, 2 or 3, or
  - (b) produced by synthesis more than 30 tonnes of discrete organic chemicals not listed in schedule 1, 2 or 3, which also contain the elements phosphorus, fluorine or sulphur;
- shall provide the Minister with the following information before 1 March of each year:
- 1. the name of the plant site and the name of the natural or legal person operating it;
  - 2. the address and Land Registry designation of the plant site;
  - 3. the number of plants at the site at which schedule 2 chemicals are produced;
  - 4. the approximate number of plants at the site producing the chemicals referred to in points (a) and (b);
  - 5. in the case of a facility as referred at (a): the approximate aggregate amount of undeclared discrete organic chemicals produced in the previous calendar year, expressed in the ranges: up to 1,000 tonnes, 1,000 to 10,000 tonnes and 10,000 tonnes or more;
  - 6. in the case of a facility as referred at (b): the number of plants at the site that produced discrete organic chemicals containing the elements phosphorus, fluorine and sulphur, and the approximate aggregate amount of these chemicals produced in these facilities in the previous calendar year, expressed in the ranges: up to 200 tonnes, 200 to 1,000, 1,000 to 10,000 tonnes and 10,000 tonnes or more.
2. This article does not apply to a facility that produced explosives or hydrocarbons only.

#### Article 8

The information to be provided to the Minister pursuant to this Chapter and Chapter 4 shall be submitted to the Inspector of Drugs.

## Article 11

Any person who, on the date on which this Country Decree enters into force, operates a facility as referred to in article 5, paragraphs 1 and 2, of the Country Ordinance, or who has operated such a facility in the period referred to in that article, where schedule 2 chemicals or schedule 3 chemicals have been produced for the purpose of developing chemical weapons, shall provide the following information within two weeks of the entry into force of this Country Decree:

- (a) the name of the plant site and the name of the natural or legal person operating it;
- (b) the address and Land Registry designation of the plant site;
- (c) for each plant at the site where schedule 2 or schedule 3 chemicals were produced for chemical weapons purposes:
  1. the name of the plant and of the natural or legal person who operates or has operated it;
  2. its precise location within the site to which it belongs, including the specific building or structure number, if any;
  3. the main activities carried out there;
  4. data showing whether the plant produced, processed or consumed schedule 2 chemicals;
  5. data showing whether the plant was specially intended for those activities or is or was suitable for various purposes;
  6. data showing whether any other activities were carried out with regard to schedule 2 chemicals;
- (d) For each schedule 2 or schedule 3 chemical produced for chemical weapons purposes:
  1. the chemical name, common or trade name used by the facility, structural formula and CAS registry number, if assigned;
  2. the dates when the chemical was produced and the quantity produced;
  3. the location to which the chemical was delivered and the nature of the end product produced, if known.

## Article 12

1. Any person who, on the date on which this Country Decree enters into force, operates a facility as referred to in article 6 of the Country Ordinance, which in the calendar year prior to that date:
  - (a) produced by synthesis more than 200 tonnes of discrete organic chemicals not listed in schedule 1, 2 or 3, or
  - (b) produced by synthesis more than 30 tonnes of discrete organic chemicals not listed in schedule 1, 2 or 3, which also contain the elements phosphorus, fluorine or sulphur;shall provide the following information within two weeks of the date of entry into force:
  1. the name of the plant site and the name of the natural or legal person operating it;

OFFICIAL BULLETIN

COUNTRY DECREE, CONTAINING GENERAL MEASURES, of 21 April 1997 containing rules on the implementation of the Country Ordinance to implement the Chemical Weapons Convention (Chemical Weapons Convention Implementation Decree).

IN THE NAME OF THE QUEEN!

THE GOVERNOR of the Netherlands Antilles,

Having taken into account:

that it is necessary to implement the provisions of Chapter 2, § 2, of the Chemical Weapons Convention Implementation Ordinance;

having regard to article 4, article 5, paragraphs 1 and 2, articles 6 and 8 of the Chemical Weapons Convention Implementation Ordinance;

Having heard the Council of State, has decided:

**Chapter 1**  
**DEFINITIONS**

Article 1

In this Country Decree and the provisions based on it, the following definitions apply:

- |  |   |
|--|---|
| Country Ordinance:                     | the Chemical Weapons Convention Implementation Ordinance;   |
| CAS registry number:                   | the registry number of the Chemical Abstracts Service (CAS), referred to in the Convention;   |
| Schedule 1, Schedule 2 and Schedule 3: | schedules 1, 2 and 3, as included in part B of the Annex on chemicals to the Convention;  |
| discrete organic chemical:             | any chemical compound of the element carbon, with the exception of its oxides, sulphides, and metal carbonates, identified by chemical name, structural formula, if known, and CAS registry |

4. Any person operating a facility to which article 3, paragraphs 2 or 3, of the Country Ordinance applies, shall provide the Minister before 1 September of each year with the following information on projected activities and the expected production at the facility in the coming calendar year:
  - (a) a designation of the nature of the facility;
  - (b) for each schedule 1 chemical expected to be produced, consumed or stored at the facility:
    1. the chemical name, structural formula and CAS registry number, if assigned;
    2. the quantity expected to be produced at the facility and the purposes of such production;
  - (c) information on any expected changes at the facility during the year in relation to previously submitted detailed technical descriptions of the facility, including inventories of equipment and detailed plans.
5. Paragraphs 2 and 3 shall not apply if the facility referred to in article 3, paragraph 2, is a hospital.

### Article 3

1. Any person granted dispensation as referred to in article 3, paragraph 4 (a), of the Country Ordinance shall provide the Minister with the following information at least seven months prior to the commissioning of the facility in question:
  - (a) the address and Land Registry designation of the facility;
  - (b) a technical description of the facility, with a specific designation of a facility producing schedule 1 chemicals.
2. The Minister shall be notified of any proposed changes in relation to the information referred to in paragraph 1 at least seven months prior to the making of such changes.
3. Any person granted dispensation as referred to in paragraph 1 shall provide the Minister before 1 March of each year with the following information on the previous year:
  - (a) a designation of the nature of the facility;
  - (b) for each schedule 1 chemical:
    1. the chemical name, structural formula and CAS registry number, if assigned;
    2. the quantity produced and, in the case of production for protective purposes, the methods employed;
    3. the name and quantity of the precursors listed in schedules 1, 2 and 3 that have been used for production of schedule 1 chemicals;
    4. the quantity consumed at the facility and the purposes of such consumption;
    5. the quantity transferred to other facilities within the Netherlands Antilles, together with a note of the quantity, the recipient and the purposes of each transfer;

shall provide the Minister with the information specified in paragraph 2 before 1 March of each year in the case of activities in the past and before 1 September in the case of expected activities. Notification of every additional activity expected after the annual specification has been submitted shall be provided at least two weeks prior to the commencement of that activity.

2. Any person operating a facility as referred to in paragraph 1 shall provide the following information before the dates referred to in that paragraph:
  - (a) the name of the plant site and the name of the natural or legal person operating it;
  - (b) the address and Land Registry designation of the plant site;
  - (c) the number of plants at the site at which schedule 2 chemicals are produced;
  - (d) for each plant at the site that produced quantities greater than those referred to in paragraph 1:
    1. the name of the plant and of the natural or legal person operating it;
    2. its precise location within the site, including the specific building or structure number, if any;
    3. the main activities carried out there;
    4. data showing whether the plant produces, processes or consumes schedule 2 chemicals;
    5. data showing whether the plant is specially intended for those activities or is suitable for various purposes;
    6. data showing whether any other activities are carried out with regard to the declared schedule 2 chemicals;
    7. the production capacity of the plant(s) for each declared schedule 2 chemical.
3. Any person operating a facility as referred to in paragraph 1 shall also provide the following information for each plant site on each schedule 2 chemical above the threshold indicated in that paragraph:
  - (a) the chemical name, common or trade name used by the facility, structural formula and CAS registry number, if assigned;
  - (b) in the annual declaration of past activities as referred to in paragraph 1: the aggregate amount of schedule 2 chemicals produced, processed, consumed, imported or exported in the previous calendar year;
  - (c) in the annual declaration of expected activities: the aggregate amount of schedule 2 chemicals expected to be produced, processed or consumed at the plant site, including the expected periods in which these operations will take place;
  - (d) the purposes for which the schedule 2 chemical was or will be produced, processed or consumed, subdivided according to:
    1. processing and consumption on site, with a specification of the product types;
    2. sale or transfer within the territory of the Netherlands Antilles, with a specification of whether the chemicals or

**EXPLANATORY MEMORANDUM to the Country Decree, containing general measures, of 21 April 1997 containing rules on the implementation of the Country Ordinance to implement the Chemical Weapons Convention (Chemical Weapons Convention Implementation Decree).**

**I. General**

The Chemical Weapons Convention Implementation Decree provides for the introduction of administrative rules governing chemicals in respect of which restrictive measures are contained in the Chemical Weapons Convention Implementation Ordinance.

The purposes of these two items of legislation is to implement at national level the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, with annexes, as concluded in Paris on 13 January 1993, referred to below as the Convention.

A large part of the provisions of the Convention, for example those relating to the destruction of chemical weapons and facilities for the production of such weapons, need not be implemented in the Netherlands Antilles for the simple reason that it has neither chemical weapons nor facilities for their production.

However, the other provisions of the Convention should be implemented in the Netherlands Antilles; besides making certain prohibited acts criminal offences these other provisions are concerned in particular with verification of activities that are covered by the Convention but are not in themselves prohibited. These activities are subject to a declaration system, which imposes obligations on the chemical industry and trade in the Netherlands Antilles, a variety of other industries, and research institutions.

The Chemical Weapons Convention Implementation Ordinance provides a statutory basis for laying down rules to implement the provisions of the Convention. These rules relate to declaration obligations and the periods for declaration. The chemicals that give rise to these obligations are listed in the Annex on chemicals to the Convention. The Annex on chemicals is subdivided into three schedules: schedule 1, schedule 2 and schedule 3. A few schedule 1 chemicals are used in the Netherlands Antilles, but only on a small scale for research purposes or for pharmaceutical or medical purposes in laboratories and hospitals. The production in the Netherlands Antilles of schedule 2 and schedule 3 chemicals is restricted to just a few of the chemicals concerned. The trade in this kind of chemical, particularly the schedule 3 chemicals, is more extensive. In addition to the chemicals listed in the three schedules, the Convention recognises a fourth category of chemical, namely "discrete organic chemicals". These are organic chemicals produced by synthesis which are not listed in schedules 1, 2 or 3, and

Under part I, paragraph 6 (c), of the Verification Annex a "unit" (production unit) means the combination of those items of equipment, including vessels and vessel set up, necessary for the production, processing or consumption of a chemical.

#### Schedule 1 chemicals: declaration obligations

In the case of existing schedule 1 obligations there are a number of initial (i.e. once-only) declaration obligations (article 10 of the Implementation Decree). First of all, a person operating a facility as referred to in article 3, paragraphs 2 or 3, of the Country Ordinance is required to provide the Minister of Health and Environmental Protection with various information within two weeks of the date of entry into force of the Decree. In addition, any person who, on that date, performs activities for which a dispensation as referred to in section 3, subsection 4 (a) or (b), of the Country Ordinance is required, must submit an application for dispensation to the Minister through the intermediary of the Inspector of Drugs within two weeks of the entry into force of the Decree. The information mentioned in articles 3 or 4 of the County Decree should be provided with the application.

Articles 2 and 3 of the Country Decree specify the annual declaration obligations in respect of schedule 1 chemicals, in accordance with part VI of the Verification Annex. The information about the past year must be submitted annually before 1 March - and the information about projected activities and expected production in the coming calendar year annually before 1 September - to the Minister of Health and Environmental Protection.

In addition, article 4 provides that any person granted dispensation for the transfer of schedule 1 chemicals has an annual declaration obligation. This obligation means that the Minister of Health and Environmental Protection must be notified annually before 1 March of the transfers of schedule 1 chemicals in the previous calendar year. Furthermore, notice of every proposed transfer of schedule 1 chemicals must be given to the Minister at least eight weeks prior to the date of transfer.

The Convention provides that facilities that produce less than 100 grams of schedule 1 chemicals per year in laboratories are not covered by the declaration obligations if the chemicals are intended for research, medical or pharmaceutical purposes (see part VI (C), paragraph 12, of the Verification Annex). In accordance with the Convention, article 3, paragraph 2, of the Implementation Ordinance also exempts from the prohibitions the production of schedule 1 chemicals in laboratories in quantities of less than 100 grams, but only if such chemicals are intended for research, medical or pharmaceutical purposes. Nonetheless, article 4, paragraph 1, of the Implementation Ordinance provides, contrary to the Convention and in keeping with the analogous Implementation Act in the Netherlands, that facilities that produce less than 100 grams per year in laboratories are

The annual declaration obligations in respect of schedule 2 and schedule 3 chemicals, as set out in parts VII and VIII of the Verification Annex, are listed in articles 5 and 6 of this Country Decree. Information about past activities and expected activities must be provided to the Minister before 1 March and 1 September respectively.

#### Discrete organic chemicals

Facilities which:

- produce by synthesis more than 200 tonnes of discrete organic chemicals, or
- produce by synthesis more than 30 tonnes of discrete organic chemicals which also contain the elements phosphorus, fluorine or sulphur;

must declare that they produce such chemicals within two weeks of the entry into force of this Country Decree (article 12 of the Decree). Article 7 of the Decree provides that this information must be given to the Minister of Health and Environmental Protection before 1 March of each year.

### **III. Types of facility to which the Country Decree applies**

Articles 2 and 10 refer to the facilities to which article 3, paragraphs 2 and 3, of the Implementation Ordinance applies. This means facilities which develop, produce, acquire, stockpile, retain, transfer and use schedule 1 chemicals for research, medical or pharmaceutical purposes. Articles 3 and 4 of this Country Decree refer to the dispensations defined in article 3, paragraph 4 (a) and (b), of the Implementation Ordinance, and cover the same type of facilities.

Reference is also made in articles 5, 6 and 11 of this Country Decree to the facilities defined in article 5, paragraph 1, of the Dispensation Ordinance. These are facilities which produce, process or consume schedule 2 chemicals and facilities which produce schedule 3 chemicals.

Finally, articles 7 and 12 refer to the facilities defined in article 6 of the Implementation Ordinance, namely facilities which produce discrete organic chemicals.

### **IV. Administrative burden on businesses**

The declaration obligations imposed on the chemical industry and trade, on a variety of other industries, and also on a number of research institutions entail a degree of administrative burden. Part of this burden is once-only, i.e. the initial declarations. But another part recurs annually. However, the administrative burden on each business is quantifiable since the information to be provided is of a general nature. For the great majority of the businesses concerned, it will amount to no more than completing a declaration form consisting of a single A4 page. In general, it would seem

### Article 13

1. The officials referred to in article 12 shall exercise their powers only in so far as can reasonably be deemed necessary for the performance of their duties.
2. They are authorised to enter, with the necessary equipment and accompanied by such persons as they may designate, any locations, with the exception of a dwelling without the express permission of the occupant. If they are refused entry, they may gain entry where necessary with the help of the police.
3. If the location referred to in paragraph 2 is a dwelling or partly a dwelling or is accessible only through a dwelling, they shall not, without the express permission of the occupant, enter the dwelling other than by virtue of a general or special written warrant issued by the public prosecutor or by virtue of a special written warrant issued by an assistant public prosecutor. They shall prepare an official report of such entry and send a copy of it within a period of forty-eight hours to the person whose dwelling has been entered.
4. They are authorised to request any information.
5. They are authorised to request access to commercial information and documents, including electronic media. They are authorised to make copies of such information. If they cannot make copies at the location they are authorised to take the information and documents away with them for a short period for that purpose, after issuing a written receipt.
6. They are authorised to inspect property, record it and take samples of it. They are authorised for this purpose to open packaging. If the inspection, recording or sampling cannot take place at the location, they are authorised to take such property away with them for a short period for that purpose, after issuing a written receipt. They are authorised to have the samples inspected elsewhere outside the Netherlands Antilles. Any samples taken shall be returned wherever possible.
7. They are authorised to inspect means of transport in respect of which they have a supervisory task.
8. They are authorised to inspect the cargo of means of transport if they have good reason to believe that such means of transport are being used to carry property in respect of which they have a supervisory task.
9. They are authorised to request the driver of the means of transport to allow them to inspect the documents required by law in respect of which they have a supervisory task.
10. With a view to exercising these powers, they are authorised to request the driver of a vehicle or the navigator of a vessel to stop the vehicle or vessel and take it to a location that they designate.

### Article 14

1. All persons are obliged to provide the persons referred to in article 12 with all the assistance in the exercise of their powers that they can reasonably request.

**Chapter 5  
OTHER PROVISIONS**

**Article 17**

A resident of the Netherlands Antilles who breaches a prohibition laid down by or pursuant to article 2, paragraphs 1 and 2, and article 3, paragraph 1, outside the Netherlands Antilles shall be subject to the criminal law of the Netherlands Antilles.

**Chapter 6  
FINAL PROVISIONS**

**Article 18**

This Country Ordinance shall enter into force on a date to be determined by Country Decree.

**Article 19**

This Country Ordinance may be cited as: the Chemical Weapons Convention Implementation Ordinance.

Done in Curaçao, 21 April 1997  
J.M. SALEH

The Minister of Health and Environmental Protection  
B.J. DORAN-SCOOP

Issued on 22 April 1997  
The Minister for General Affairs  
M.A. POURIER