Chemical Weapons Act 1996

CHAPTER 6

ARRANGEMENT OF SECTIONS

Introduction

Section.
1. General interpretation.

Chemical weapons

2. Use etc. of chemical weapons.
3. Application of section 2.
4. Suspicious objects.
5. Power to remove or immobilise objects.
6. Power to destroy removed objects.
7. Power to enter premises and destroy objects.
8. Compensation for destruction.
9. Offences relating to destruction etc.
10. Destruction etc: supplementary.

Premises for producing chemical weapons etc.

11. Premises or equipment for producing chemical weapons.
12. Suspicious equipment or buildings.
13. Notice requiring destruction or alteration.
14. Power where notice not complied with.
15. Position where no notice can be served.
16. Compensation for destruction or alteration.
17. Offences relating to destruction etc.
18. Destruction etc: supplementary.

Chemicals for permitted purposes

19. Restriction on use etc.
20. Licences.

Information and records

21. Information for purposes of Act.
22. Information and records for purposes of Convention.
23. Identifying persons who have information.

Inspections under Convention

Section.
24. Inspections: interpretation.
25. Rights of entry etc. for purposes of inspections.
26. Offences in connection with inspections.
27. Privileges and immunities in connection with inspections.
28. Reimbursement of expenditure.

Offences: miscellaneous

29. Power to search and obtain evidence
30. Forfeiture in case of conviction.
31. Offences: other provisions.

Other miscellaneous provisions

32. Disclosure of information.
33. Annual reports by Secretary of State.
34. Service of notices.
35. Amendment of Army, Air Force and Naval Discipline Acts.
36. Power to amend this Act.
37. The Crown.

General

38. Finance.
39. Commencement, extent and citation.

SCHEDULE:

Scheduled Toxic Chemicals and Precursors

Chemical Weapons Act 1996

1996 CHAPTER 6

An Act to promote the control of chemical weapons and of certain toxic chemicals and precursors; and for connected purposes.

[3rd April 1996]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Introduction

General interpretation.

1.—(1) Chemical weapons are—

(a) toxic chemicals and their precursors;

(b) munitions and other devices designed to cause death or harm through the toxic properties of toxic chemicals released by them;

(c) equipment designed for use in connection with munitions and devices falling within paragraph (b).

(2) Subsection (1) is subject to sections 2(2) and (3), 10(1) and 11(2) (by virtue of which an object is not a chemical weapon if the use or intended use is only for permitted purposes).

(3) Permitted purposes are—

(a) peaceful purposes;

(b) purposes related to protection against toxic chemicals;

(c) legitimate military purposes;

(d) purposes of enforcing the law.

(4) Legitimate military purposes are all military purposes except those which depend on the use of the toxic properties of chemicals as a method of warfare in circumstances where the main object is to cause death, permanent harm or temporary incapacity to humans or animals.

(5) A toxic chemical is a chemical which through its chemical action on life processes can cause death, permanent harm or temporary incapacity to humans or animals; and the origin, method of production and place of production are immaterial.

(6) A precursor is a chemical reactant which takes part at any stage in the production (by whatever method) of a toxic chemical.

(7) References to an object include references to a substance.

(8) The Convention is the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed at Paris on 13 January 1993.

(9) This section applies for the purposes of this Act.

Chemical weapons

Use etc. of chemical weapons.

2.—(1) No person shall—

(a) use a chemical weapon;

(b) develop or produce a chemical weapon;

(c) have a chemical weapon in his possession;

(d) participate in the transfer of a chemical weapon;

(e) engage in military preparations, or in preparations of a military nature, intending to use a chemical weapon.

(2) For the purposes of subsection (1)(a) an object is not a chemical weapon if the person uses the object only for permitted purposes; and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(3) For the purposes of subsection (1)(b), (c), (d) or (e) an object is not a chemical weapon if the person does the act there mentioned with the intention that the object will be used only for permitted purposes; and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(4) For the purposes of subsection (1)(d) a person participates in the transfer of an object if—

(a) he acquires or disposes of the object or enters into a contract to acquire or dispose of it, or

(b) he makes arrangements under which another person acquires or disposes of the object or another person enters into a contract to acquire or dispose of it.

(5) For the purposes of subsection (4)—

(a) to acquire an object is to buy it, hire it, borrow it or accept it as a gift;

(b) to dispose of an object is to sell it, let it on hire, lend it or give it.

(6) In proceedings for an offence under subsection (1)(a), (c) or (d) relating to an object it is a defence for the accused to prove—

(a) that he neither knew nor suspected nor had reason to suspect that the object was a chemical weapon, or

(b) that he knew or suspected it to be a chemical weapon and as soon as reasonably practicable after he first so knew or suspected he took all reasonable steps to inform the Secretary of State or a constable of his knowledge or suspicion.

(7) Nothing in subsection (6) prejudices any defence which it is open to a person charged with an offence under this section to raise apart from that subsection.

(8) A person contravening this section is guilty of an offence and liable on conviction on indictment to imprisonment for life.

Application of section 2.

3.—(1) Section 2 applies to acts done in the United Kingdom or elsewhere.

(2) So far as it applies to acts done outside the United Kingdom, section 2 applies to United Kingdom nationals, Scottish partnerships, and bodies incorporated under the law of any part of the United Kingdom.

(3) Her Majesty may by Order in Council extend the application of section 2, so far as it applies to acts done outside the United Kingdom, to bodies incorporated under the law of any of the Channel Islands, the Isle of Man or any colony.

(4) For the purposes of this section a United Kingdom national is an individual who is—

(a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 is a British subject, or 1981 c. 61.

(c) a British protected person within the meaning of that Act.

(5) Proceedings for an offence committed under section 2 outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the United Kingdom.

Suspicious objects.

4.—(1) If—

(a) the Secretary of State has grounds to suspect that an object is a chemical weapon, and

(b) at least one person falls within subsection (2),

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

(2) 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) and who appears to the Secretary of State to have an interest which the Secretary of State believes is materially affected by the notice.

(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 suspects that the object is a chemical weapon and gives the reasons for his suspicion;

(c) states that he is considering whether to secure its destruction under sections 5 to 7;

(d) states that any person may make representations that the object is not a chemical weapon;

(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.

Power to remove or immobilise objects.

5.—(1) If the Secretary of State has reasonable cause to believe that—

(a) 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 subsection, and

(b) the object is a chemical weapon,

the Secretary of State may authorise a person to enter the premises and to search them.

(2) If—

(a) a justice of the peace is satisfied on information on oath that there is reasonable cause to believe that an object is on premises (of whatever nature) and that it is a chemical weapon, or

(b) in Scotland a justice, within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995, is satisfied by evidence on oath as mentioned in paragraph (a),

1995 c. 46.

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) A person who acts under an authorisation given under subsection (1) or (2) may take with him such other persons and such equipment as appear to him to be necessary.

(4) If a person enters premises under an authorisation given under subsection (1) or (2) and the 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 to something in a conspicuous position near the object, stating that the object is not to be moved or interfered with before a date specified in the warning.

(5) For the purposes of subsection (4) an object is made safe if, without being destroyed, it is prevented from being an immediate danger (as where a fuse is neutralised or the object is smothered in foam).

(6) The powers conferred on an authorised person under this section shall only be exercisable, if the authorisation under subsection (1) or the warrant so provides, in the presence of a constable.

(7) This section applies whether or not any copy of a notice has been served under section 4.

Power to destroy removed objects.

6.—(1) This section applies if an object is removed from premises under section 5, 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;

(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 second six-month period the Secretary of State decides that the object should be destroyed he may authorise a person to destroy it; but this is subject to subsections (3) to (5).

(3) 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 such a person a copy of a notice falling within subsection (4).

(4) 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;

(d) states than an objection (if made) must be made in writing to the Secretary of State before such date as is specified in the notice and must state why the object should not be destroyed.

(5) Before he reaches a decision under subsection (2) the Secretary of State must—

(a) allow any person on whom a copy of a notice has been served under subsection (3) 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 5 and destroyed under this section the Secretary of State may recover from a responsible person any costs reasonably incurred by the Secretary of State in connection with the removal and destruction; and a responsible person is any person who had possession of the object immediately before its removal.

(7) If—

(a) an object is removed from premises under section 5,

(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.

Power to enter premises and destroy objects.

7.—(1) This section applies if a warning has been affixed under section 5, 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 warning was affixed;

(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 second six-month period the Secretary of State decides that the object should be destroyed it may be destroyed as provided by subsections (6) to (9); but this is subject to subsections (3) to (5).

(3) 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 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 such a person a copy of a notice falling within subsection (4).

(4) 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;

(d) states that an objection (if made) must be made in writing to the Secretary of State before such date as is specified in the notice and must state why the object should not be destroyed.

(5) Before he reaches a decision under subsection (2) the Secretary of State must—

(a) allow any person on whom a copy of a notice has been served under subsection (3) 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-month period the Secretary of State decides that the object should be destroyed, and

(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 warning has been affixed under section 5, and that the Secretary of State has decided at any time in the second six-month period that the object should be destroyed, or

(b) in Scotland a justice, within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995, is satisfied by evidence on oath as mentioned in paragraph (a), 1995 c. 46.

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) A person who acts under an authorisation given under subsection (6) or (7) may take with him such other persons and such equipment as appear to him to be necessary.

(9) The powers conferred on an authorised person under this section shall only be exercisable, if the authorisation under subsection (6) or the warrant so provides, in the presence of a constable.

(10) Where an object is destroyed under this section the Secretary of State may recover from a responsible person any costs reasonably incurred by the Secretary of State in connection with the destruction; and a responsible person is any person who had possession of the object immediately before the warning was affixed under section 5.

Compensation for destruction.

8.—(1) This section applies if a person claims that—

(a) an object has been destroyed under section 6 or 7,

(b) he had an interest which was materially affected by the destruction and he sustained loss as a result, and

(c) 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 the person concerned makes an application under this section to the High Court or in Scotland the Court of Session, and 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.

Offences relating to destruction etc.

9.—(1) If—

(a) a copy of a notice is served on a person under section 4,

(b) the notice relates to an object in his possession at the time the copy is served,

(c) he relinquishes possession before the date specified under section 4(3)(e), and

(d) he has no reasonable excuse for so relinquishing possession,

he is guilty of an offence.

(2) If a person wilfully obstructs a person in—

(a) entering or searching premises under an authorisation given under section 5(1) or (2) or 7(6) or (7),

(b) making an object safe, seizing or removing an object, or affixing a warning, under section 5(4),

(c) destroying an object under an authorisation given under section 6(2) or 7(6) or (7), or

(d) attempting to do anything mentioned in paragraphs (a) to (c),

the person so obstructing is guilty of an offence.

(3) If—

(a) a warning is affixed under section 5(4),

(b) a person interferes with the warning, or moves or interferes with the object before the date specified in the warning, and

(c) he has no reasonable excuse for doing so,

he is guilty of an offence.

(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 4, 6 or 7 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.

Destruction etc: supplementary.

10.—(1) If an object is in the possession of a person who intends that it will be used only for permitted purposes, it is not a chemical weapon for the purposes of sections 4(1) and (3) and 5(1) and (2); and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(2) For the purposes of sections 4 to 9—

(a) to the extent that an object consists of a toxic chemical or precursor, it is destroyed if it is permanently prevented from being used other than for permitted purposes;

(b) to the extent that an object consists of a munition or other device designed to cause death or harm through toxic chemicals released by it, it is destroyed if it is permanently prevented from doing so;

(c) to the extent that an object consists of equipment designed for use in connection with a munition or other device, it is destroyed if it is permanently prevented from being so used.

(3) In sections 5 to 9 "premises" includes land (including buildings), moveable structures, vehicles, vessels, aircraft and hovercraft.

(4) Nothing in sections 4 to 7 affects any power arising otherwise than by virtue of those sections (such as a power to dispose of property in police possession in connection with the investigation of a suspected offence).

Premises for producing chemical weapons etc.

Premises or equipment for producing chemical weapons.

11.—(1) No person shall—

(a) construct premises he intends to be used to produce chemical weapons;

(b) alter premises in circumstances where he intends that they will be used to produce chemical weapons;

(c) instal or construct equipment he intends to be used to produce chemical weapons;

(d) alter equipment in circumstances where he intends that it will be used to produce chemical weapons;

(e) permit the construction on land he occupies of premises he intends to be used to produce chemical weapons;

(f) permit premises on land he occupies to be altered in circumstances where he intends that they will be used to produce chemical weapons;

(g) permit the installation or construction on land he occupies of equipment he intends to be used to produce chemical weapons;

(h) permit equipment on land he occupies to be altered in circumstances where he intends that it will be used to produce chemical weapons.

(2) For the purposes of subsection (1) an object is not a chemical weapon if the person intends that the object will be used only for permitted purposes; and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(3) A person contravening this section is guilty of an offence and liable on conviction on indictment to imprisonment for life.

Suspicious equipment or buildings.

12.—(1) If—

(a) the Secretary of State has grounds to suspect that any equipment or building is a chemical weapons production facility, and

(b) at least one person falls within subsection (2),

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

(2) The persons falling within this subsection are—

(a) any person who appears to the Secretary of State to occupy the land on which the equipment or building is situated,

(b) if the Secretary of State's suspicion relates to equipment, any person not falling within paragraph (a) and who appears to the Secretary of State to have the equipment in his possession, and

(c) any person not falling within paragraph (a) or (b) and who appears to the Secretary of State to have an interest which the Secretary of State believes is materially affected by the notice.

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

(a) describes the equipment or building and states its location;

(b) states that the Secretary of State suspects that the equipment or building is a chemical weapons production facility and gives the reasons for his suspicion;

(c) states that he is considering whether to require the equipment or building to be destroyed or altered;

(d) states that any person may make representations that the equipment or building is not a chemical weapons production facility.

(4) If the notice relates to equipment it must state that a person on whom the notice is served and who has the equipment in his possession must not relinquish possession of, or alter or use, the equipment before a date specified in the notice.

Notice requiring destruction or alteration.

13.—(1) If—

(a) the Secretary of State has reasonable cause to believe that any equipment or building is a chemical weapons production facility, and

(b) at least one person falls within subsection (2),

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

(2) The persons falling within this subsection are—

(a) any person who appears to the Secretary of State to occupy the land on which the equipment or building is situated,

(b) if the Secretary of State's belief relates to equipment, any person not falling within paragraph (a) and who appears to the Secretary of State to have the equipment in his possession, and

(c) any person not falling within paragraph (a) or (b) and who appears to the Secretary of State to have an interest which the Secretary of State believes would be materially affected by the destruction or alteration of the equipment or building.

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

(a) describes the equipment or building and states its location;

(b) states that the Secretary of State believes the equipment or building is a chemical weapons production facility;

(c) requires the equipment or building to be destroyed or altered (as the case may be) in a manner, and before a date, specified in the notice.

(4) If a notice under this section requires any equipment or building to be altered, a further notice under this section may—

(a) revoke the first notice, and

(b) require the equipment or building to be destroyed;

and the preceding provisions of this section shall apply to the further notice accordingly.

(5) This section applies whether or not any copy of a notice has been served under section 12.

Power where notice not complied with.

14.—(1) For the purposes of this section the qualifying condition is that—

(a) a notice has been prepared under section 13,

(b) the provisions of section 13(1) to (3) have been complied with in relation to the notice,

(c) the notice has not been revoked, and

(d) any requirement set out in the notice has not been complied with.

(2) If—

(a) a justice of the peace is satisfied on information on oath that the qualifying condition is fulfilled, or

(b) in Scotland a justice, within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995, is satisfied by evidence on oath that the qualifying condition is fulfilled, 1995 c. 46.

he may issue a warrant in writing authorising a person acting under the authority of the Secretary of State to take remedial action under this section.

(3) If a person is authorised by a warrant to take remedial action under this section he may—

(a) enter the land on which the equipment or building is situated, if necessary by force;

(b) do whatever is required to secure that the equipment or building is destroyed or altered in a manner specified in the notice;

(c) take with him such other persons and such equipment as appear to him to be necessary to help him to exercise the powers mentioned in paragraphs (a) and (b).

(4) The powers conferred on an authorised person under this section shall only be exercisable, if the warrant so provides, in the presence of a constable.

(5) If anything is done in exercise of the powers mentioned in this section, the Secretary of State may recover from a responsible person any costs reasonably incurred by the Secretary of State in connection with the exercise of those powers; and a responsible person is—

(a) in the case of equipment, any person in possession of the equipment at the time the land is entered;

(b) in the case of a building, any person occupying the land at the time it is entered.

Position where no notice can be served.

15.—(1) For the purposes of this section the qualifying condition is that—

(a) the Secretary of State has reasonable cause to believe that any equipment or building is a chemical weapons production facility,

(b) in the period of six months beginning with the day after he formed his belief it has not been possible to serve a copy of a notice under section 13 because of the circumstances mentioned in subsection (2), and

(c) the Secretary of State has drawn up proposals for the destruction or alteration of the equipment or building in a manner specified in the proposals.

(2) The circumstances are that—

(a) no person appeared to the Secretary of State to occupy the land on which the equipment or building is situated,

(b) if the Secretary of State's belief relates to equipment, no person appeared to the Secretary of State to have the equipment in his possession, and

(c) no person appeared to the Secretary of State to have an interest which the Secretary of State believed would be materially affected by the destruction or alteration of the equipment or building.

(3) If—

(a) a justice of the peace is satisfied on information on oath that the qualifying condition is fulfilled, or

(b) in Scotland a justice, within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995, is satisfied by evidence on oath that the qualifying condition is fulfilled,

1995 c. 46.

he may issue a warrant in writing authorising a person acting under the authority of the Secretary of State to take remedial action under this section.

(4) If a person is authorised by a warrant to take remedial action under this section he may—

(a) enter the land on which the equipment or building is situated, if necessary by force;

(b) do whatever is required to secure that the equipment or building is destroyed or altered in a manner specified in the proposals drawn up by the Secretary of State;

(c) take with him such other persons and such equipment as appear to him to be necessary to help him to exercise the powers mentioned in paragraphs (a) and (b).

(5) The powers conferred on an authorised person under this section shall only be exercisable, if the warrant so provides, in the presence of a constable.

(6) If anything is done in exercise of the powers mentioned in this section, the Secretary of State may recover from a responsible person any costs reasonably incurred by the Secretary of State in connection with the exercise of those powers; and a responsible person is—

(a) in the case of equipment, any person in possession of the equipment at the time the land is entered;

(b) in the case of a building, any person occupying the land at the time it is entered.

Compensation for destruction or alteration.

16.—(1) This section applies if a person claims that—

(a) any equipment or building has been destroyed or altered in compliance with a notice falling within section 13(3) or has been destroyed or altered under section 14,

(b) he had an interest which was materially affected by the destruction or alteration and he sustained loss as a result, and

(c) no copy of a notice was served on him under section 13.

(2) This section also applies if a person claims that—

(a) any equipment or building has been destroyed or altered under section 15, and

(b) he had an interest which was materially affected by the destruction or alteration and he sustained loss as a result.

(3) If the person concerned makes an application under this section to the High Court or in Scotland the Court of Session, and 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.

(4) If the Court believes that the equipment or building would have been destroyed or altered even if a copy of a notice had been served on the applicant under section 13 the Court must not order compensation to be paid under this section.

Offences relating to destruction etc.

17.—(1) If—

(a) a copy of a notice is served on a person under section 12,

(b) the notice relates to equipment in his possession at the time the copy is served,

(c) he relinquishes possession of, or alters or uses, the equipment before the date specified under section 12(4), and

(d) he has no reasonable excuse for doing so,

he is guilty of an offence.

(2) If—

(a) a copy of a notice is served on a person under section 13,

(b) the notice relates to equipment in his possession at the time the copy is served or to a building situated on land he occupies at that time,

(c) any requirement set out in the notice is not fulfilled, and

(d) he has no reasonable excuse for the requirement not being fulfilled,

he is guilty of an offence.

(3) If a person wilfully obstructs—

(a) a person exercising, or attempting to exercise, the powers mentioned in section 14(3)(a) or (b) or 15(4)(a) or (b), or

(b) any other person taken with him as mentioned in section 14(3)(c) or 15(4)(c) and helping him, or attempting to help him, to exercise those powers,

the person so obstructing is guilty of an offence.

(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 notice served under section 12 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.

Destruction etc: supplementary.

18.—(1) In sections 12 to 15 "chemical weapons production facility" has the meaning given by the definition of that expression in the Convention, and for this purpose—

(a) expressions used in the definition in the Convention shall be construed in accordance with the Convention, and

(b) section 1 shall be ignored.

(2) For the purposes of sections 12 to 16 "destroyed" and "destruction", in relation to a building, mean demolished and demolition.

(3) Nothing in sections 12 to 15 affects any power arising otherwise than by virtue of those sections (such as a power to dispose of property in police possession in connection with the investigation of a suspected offence).

Chemicals for permitted purposes

Restriction on use etc.

19.—(1) Subject to section 20 (which relates to licences) no person shall—

(a) use a Schedule 1 toxic chemical or precursor for a permitted purpose, or

(b) produce or have in his possession a Schedule 1 toxic chemical or precursor with the intention that it will be used for a permitted purpose.

(2) A Schedule 1 toxic chemical or precursor is a toxic chemical or precursor listed in Schedule 1 to the annex on chemicals to the Convention; and for ease of reference that Schedule is set out in the Schedule to this Act.

(3) A person contravening this section 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 a fine.

Licences.

20.—(1) Section 19 does not apply to anything done in accordance with the terms of a licence granted by the Secretary of State and having effect at the time it is done.

(2) The Secretary of State may—

(a) grant a licence in such circumstances and on such terms as he thinks fit;

(b) vary or revoke a licence by serving a notice to that effect on the person to whom the licence was granted.

(3) A variation or revocation shall take effect at such reasonable time as is specified in the notice served under subsection (2)(b).

(4) The Secretary of State may by order make provision with respect to appealing against a refusal to grant, renew or vary a licence or against a variation or revocation of a licence.

(5) An order under subsection (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(6) A person who knowingly makes a false or misleading statement for the purpose of obtaining a licence or a renewal or variation of a licence, or of opposing a variation or revocation of a licence, 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.

Information and records

Information for purposes of Act.

21.—(1) If the Secretary of State has grounds to suspect that a person is committing or has committed an offence under this Act the Secretary of State may by notice served on the person require him to give in such form as is specified in the notice, and within such reasonable period as is so specified, such information as—

(a) the Secretary of State has reasonable cause to believe will help to establish whether the person is committing or has committed such an offence, and

(b) is specified in the notice.

(2) A person who without reasonable excuse fails to comply with a notice served on him under subsection (1) 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 a fine.

(3) A person on whom a notice is served under subsection (1) and who knowingly makes a false or misleading statement in response to it 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.

Information and records for purposes of Convention.

22.—(1) The Secretary of State may by notice served on any person require him to give in such form as is specified in the notice, and within such reasonable period as is so specified, such information as—

(a) the Secretary of State has reasonable cause to believe is or will be needed in connection with anything to be done for the purposes of the Convention, and

(b) is specified in the notice;

and the information required by a notice may relate to a state of affairs subsisting before the coming into force of this Act or of the Convention.

(2) The Secretary of State may by notice served on any person require him to keep such records as—

(a) the Secretary of State has reasonable cause to believe will facilitate the giving of information the person may at any time be required to give under subsection (1), and

(b) are specified in the notice.

(3) A person who without reasonable excuse fails to comply with a notice served on him under subsection (1) or (2) 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 a fine.

(4) A person on whom a notice is served under subsection (1) and who knowingly makes a false or misleading statement in response to it 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.

Identifying persons who have information.

23.—(1) The Secretary of State may make regulations requiring persons of any description specified in the regulations to inform him that they are of such a description.

(2) Any such description must be so framed that persons within it are persons on whom the Secretary of State is likely to want to serve a notice under section 22.

(3) If regulations are made under this section the Secretary of State shall arrange for a statement of the fact that they have been made to be published in such manner as is likely to bring them to the attention of persons affected by them.

(4) A person who without reasonable excuse fails to comply with a requirement imposed by the regulations 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 a fine.

(5) A person who knowingly makes a false or misleading statement in response to a requirement imposed by the regulations 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.

(6) The regulations shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Inspections under Convention

Inspections: interpretation.

24. For the purposes of sections 25 to 28—

(a) the verification annex is the annex on implementation and verification to the Convention;

(b) a routine inspection is an inspection conducted pursuant to Parts II to IX of that annex;

(c) a challenge inspection is an inspection conducted pursuant to Parts II and X of that annex;

(d) an assistance inspection is an inspection conducted pursuant to Parts II and XI of that annex;

(e) "in-country escort", "inspector", "inspection team" and "observer" have the meanings given by Part I of that annex.

Rights of entry etc. for purposes of inspections.

25.—(1) If it is proposed to conduct a routine inspection, a challenge inspection or an assistance inspection in the United Kingdom, the Secretary of State may issue an authorisation under this section in respect of that inspection.

(2) An authorisation under this section shall—

(a) contain a description of the area (the specified area) in which the inspection is to be conducted,

(b) specify the type of inspection concerned,

(c) state the names of the members of the inspection team by whom the inspection is to be carried out, and

(d) in the case of a challenge inspection, state the name of any observer who may accompany the team.

(3) Such an authorisation shall have the effect of authorising the inspection team—

(a) to exercise within the specified area such rights of access, entry and unobstructed inspection as are conferred on them by the verification annex, and

(b) to do such other things within that area in connection with the inspection as they are entitled to do by virtue of the verification annex (including things concerning the maintenance, replacement or adjustment of any instrument or other object).

(4) Such an authorisation shall in addition have the effect of—

(a) authorising an in-country escort to accompany the inspection team in accordance with the provisions of the verification annex, and

(b) authorising any constable to give such assistance as the in-country escort may request for the purpose of facilitating the conduct of the inspection in accordance with the verification annex;

and the name of the person in charge of the in-country escort shall be stated in the authorisation.

(5) An authorisation under this section in the case of a challenge inspection shall in addition have the effect of authorising the observer to exercise within the specified area such rights of access and entry as are conferred on him by the verification annex.

(6) Any constable giving assistance in accordance with subsection (4)(b) may use such reasonable force as he considers necessary for the purpose mentioned in that provision.

(7) The occupier of any premises—

(a) in relation to which it is proposed to exercise a right of entry in reliance on an authorisation under this section, or

(b) on which an inspection is being carried out in reliance on such an authorisation,

or a person acting on behalf of the occupier of any such premises, shall be entitled to require a copy of the authorisation to be shown to him by a member of the in-country escort.

(8) The validity of any authorisation purporting to be issued under this section in respect of any inspection shall not be called in question in any court of law at any time before the conclusion of that inspection.

(9) Accordingly, where an authorisation purports to be issued under this section in respect of any inspection, no proceedings (of whatever nature) shall be brought at any time before the conclusion of the inspection if they would, if successful, have the effect of preventing, delaying or otherwise affecting the carrying out of the inspection.

(10) If in any proceedings any question arises whether a person at any time was or was not, in relation to any routine, challenge or assistance inspection, a member of the inspection team or a member of the in-country escort or the observer, a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.

(11) If an authorisation is issued under this section the Secretary of State may issue an amendment varying the specified area, and—

(a) from the time when the amendment is expressed to take effect this section shall apply as if the specified area were the area as varied;

(b) subsection (8) shall apply to the amendment as it applies to the authorisation;

(c) the Secretary of State may issue further amendments varying the specified area and in such a case paragraphs (a) and (b) shall apply.

Offences in connection with inspections.

26.—(1) If an authorisation has been issued under section 25 in respect of any inspection, a person is guilty of an offence if he—

(a) refuses without reasonable excuse to comply with any request made by any constable or a member of the in-country escort for the purpose of facilitating the conduct of that inspection in accordance with the verification annex,

(b) interferes without reasonable excuse with any container, instrument or other object installed in the course of that inspection in accordance with the verification annex, or

(c) wilfully obstructs any member of the inspection team or of the in-country escort, or the observer, in the conduct of that inspection in accordance with the verification annex.

(2) Subsection (1)(b) applies to interference which occurs at any time while the container, instrument or other object is retained in accordance with the verification annex.

(3) A person guilty of an offence under 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.

Privileges and immunities in connection with inspections.

27.—(1) Members of inspection teams and observers shall enjoy the same privileges and immunities as are enjoyed by diplomatic agents in accordance with the following provisions of the 1961 Articles, namely—

(a) Article 29,

(b) paragraphs 1 and 2 of Article 30,

(c) paragraphs 1, 2 and 3 of Article 31, and

(d) Article 34.

(2) Such persons shall, in addition, enjoy the same privileges as are enjoyed by diplomatic agents in accordance with paragraph 1(b) of Article 36 of the 1961 Articles, except in relation to articles the importing or exporting of which is prohibited by law or controlled by the enactments relating to quarantine.

(3) Samples and approved equipment carried by members of an inspection team shall be inviolable and exempt from customs duties.

(4) The privileges and immunities accorded to members of inspection teams and observers by virtue of this section shall be enjoyed by them at any time when they are in the United Kingdom—

(a) in connection with the carrying out there of a routine inspection, a challenge inspection or an assistance inspection, or

(b) while in transit to or from the territory of another party to the Convention in connection with the carrying out of such an inspection there.

(5) If—

(a) immunity from jurisdiction of a member of an inspection team is waived in accordance with the verification annex, and

(b) a notice made by the Secretary of State and informing the member of the waiver is delivered to him in person,

then, from the time the notice is so delivered, this section shall not have effect to confer that immunity on the member.

(6) If in any proceedings any question arises whether a person is or is not entitled to any privilege or immunity by virtue of this section, a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.

(7) In this section—

"the 1961 Articles" means the Articles which are set out in Schedule 1 to the Diplomatic Privileges Act 1964 (Articles of Vienna Convention on Diplomatic Relations of 1961 having force of law in United Kingdom); 1964 c. 81.

"approved equipment" and "samples" shall be construed in accordance with the verification annex;

1978 c. 30.

"enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

Reimbursement of expenditure.

28. The Secretary of State may reimburse any person in respect of expenditure incurred in connection with a routine inspection, a challenge inspection or an assistance inspection.

Offences: miscellaneous

Power to search and obtain evidence

29.—(1) If—

(a) a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that an offence under this Act is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, or

1995 c. 46.

(b) in Scotland a justice, within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995, is satisfied by evidence on oath as mentioned in paragraph (a) above,

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.

(2) A person who enters the premises under the authority of the warrant may—

(a) take with him such other persons and such equipment as appear to him to be necessary;

(b) inspect any document found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Act;

(c) take copies of, or seize and remove, any such document;

(d) inspect, seize and remove any device or equipment found on the premises which he has reasonable cause to believe may be required as such evidence;

(e) inspect, sample, seize and remove any substance found on the premises which he has reasonable cause to believe may be required as such evidence;

(f) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any document, device, equipment or substance;

but no woman or girl shall be searched except by a woman.

(3) The powers conferred by a warrant under this section shall only be exercisable, if the warrant so provides, in the presence of a constable.

Forfeiture in case of conviction.

30.—(1) The court by or before which a person is convicted of an offence under this Act may order that anything shown to the court's satisfaction to relate to the offence shall be forfeited, and either destroyed or otherwise dealt with in such manner as the court may order.

(2) In particular, the court may order the thing to be dealt with as the Secretary of State may see fit; and in such a case the Secretary of State may direct that it be destroyed or otherwise dealt with.

(3) Where—

(a) the court proposes to order anything to be forfeited under this section, and

(b) a person claiming to have an interest in it applies to be heard by the court,

the court must not order it to be forfeited unless he has been given an opportunity to show cause why the order should not be made.

Offences: other provisions.

31.—(1) Proceedings for an offence under section 2 or 11 shall not be instituted—

(a) in England and Wales, except by or with the consent of the Attorney General;

(b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.

(2) Proceedings for an offence under any provision of this Act other than section 2 or 11 shall not be instituted except by or with the consent of the Secretary of State; but the preceding provisions of this subsection do not apply to Scotland.

(3) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) In subsection (3) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(5) Where an offence under this Act is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Other miscellaneous provisions

Disclosure of information.

32.—(1) This section applies to information if—

(a) it was obtained under, or in connection with anything done under, this Act or the Convention, and

(b) it relates to a particular business or other activity carried on by any person.

(2) So long as the business or activity continues to be carried on the information shall not be disclosed except—

(a) with the consent of the person for the time being carrying on the business or activity,

(b) in connection with anything done for the purposes of the Convention,

(c) in connection with anything done for the purposes of this Act,

(d) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings,

(e) in connection with the enforcement of any restriction on imports or exports,

(f) in dealing with an emergency involving danger to the public,

(g) with a view to ensuring the security of the United Kingdom, or

(h) to the International Court of Justice for the purpose of enabling that Court to deal with any dispute referred to it under the Convention.

(3) The reference to this Act in subsection (2)(c) does not include a reference to section 33.

(4) A person who discloses information in contravention of this section 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.

(5) Where a person proposes to disclose information to which this section applies in circumstances where the disclosure would by virtue of paragraphs (b) to (h) of subsection (2) not contravene this section, he may disclose the information notwithstanding any obligation not to disclose it that would otherwise apply.

Annual reports by Secretary of State.

33. The Secretary of State shall in each calendar year—

(a) prepare a report on the operation of this Act, and

(b) lay a copy of the report before each House of Parliament.

Service of notices.

34. A notice under any provision of this Act, or a copy of a notice under any such provision, may be served on a person—

(a) by delivering it to him in person,

(b) by sending it by post to him at his usual or last-known residence or place of business in the United Kingdom, or

(c) in the case of a body corporate, by delivering it to the secretary or clerk of the body corporate at its registered or principal office or sending it by post to the secretary or clerk of that body corporate at that office.

Amendment of Army, Air Force and Naval Discipline Acts.

1955 c. 18.

1955 c. 19.

1957 c. 53.

35. In each of the following provisions, namely—

(a) section 70(4) of the Army Act 1955 (civil offences),

(b) section 70(4) of the Air Force Act 1955 (civil offences), and

(c) section 48(2) of the Naval Discipline Act 1957 (exclusion of jurisdiction of courts-martial),

after the words "Biological Weapons Act 1974" there shall be inserted "or an offence under section 2 or 11 of the Chemical Weapons Act 1996".

Power to amend this Act.

36.—(1) The Secretary of State may by order make such additions to, omissions from or other modifications to this Act as he considers necessary or desirable to give effect to any amendment of the Convention made in pursuance of its provisions.

(2) The power to make an order under this section shall, if the order solely modifies the Schedule to this Act, be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The power to make any other order under this section shall be exercisable by statutory instrument, and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

The Crown.

37.—(1) Subject to the following provisions of this section, this Act binds the Crown.

(2) No contravention by the Crown of a provision made by or under this Act shall make the Crown criminally liable; but the High Court or in Scotland the Court of Session may, on the application of a person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding subsection (2), the provisions made by or under this Act apply to persons in the public service of the Crown as they apply to other persons.

(4) Nothing in this section affects Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the Crown Proceedings Act 1947 (meaning of Her Majesty in her private capacity) were contained in this Act. 1947 c. 44.

General

Finance.

38.—(1) Any expenses of the Secretary of State incurred in consequence of this Act shall be paid out of money provided by Parliament.

(2) Any sums received by the Secretary of State in consequence of this Act shall be paid into the Consolidated Fund.

Commencement, extent and citation.

39.—(1) This Act (except this section) shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument.

(2) It is hereby declared that this Act extends to Northern Ireland.

(3) Her Majesty may by Order in Council make provision for extending any of the provisions of this Act, with such exceptions, adaptations or modifications as may be specified in the Order, to any of the Channel Islands, the Isle of Man or any colony.

(4) This Act may be cited as the Chemical Weapons Act 1996.

SCHEDULE

SCHEDULED TOXIC CHEMICALS AND PRECURSORS

		(CAS registry number)
A.	TOXIC CHEMICALS:	
(1)	O-Alkyl (≤C_{10}, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates	
	e.g. Sarin: O-Isopropyl methylphosphonofluoridate	(107-44-8)
	Soman: O-Pinacolyl methylphosphonofluoridate	(96-64-0)
(2)	O-Alkyl (≤C_{10}, incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidocyanidates	
	e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate	(77-81-6)
(3)	O-Alkyl (H or ≤C_{10}, incl. cycloalkyl) S-2-dailkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts	
	e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate	(50782-69-9)
(4)	Sulfur mustards:	
	2-Chloroethylchloromethylsufide	(2625-76-5)
	Mustard gas: Bis (2-chloroethyl) sulfide	(505-60-2)
	Bis (2-chloroethylthio) methane	(63869-13-6)
	Sesquimustard: 1,2-Bis (2-chloroethylthio) ethane	(3563-36-8)
	1,3-Bis (2-chloroethylthio)-n-propane	(63905-10-2)
	1,4-Bis (2-chloroethylthio)-n-butane	(142868-93-7)
	1,5-Bis (2-chloroethylthio)-n-pentane	(142868-94-8)
	Bis (2-chloroethylthiomethyl) ether	(63918-90-1)
	O-Mustard: Bis (2-chloroethylthioethyl) ether	(63918-89-8)
(5)	Lewisites:	
	Lewisite 1: 2-Chlorovinyldichloroarsine	(541-25-3)
	Lewisite 2: Bis (2-chlorovinyl) chloroarsine	(40334-69-8)
	Lewisite 3: Tris (2-chlorovinyl) arsine	(40334-70-1)
(6)	Nitrogen mustards:	
	HN1: Bis (2-chloroethyl) ethylamine	(538-07-8)
	HN2: Bis (2-chloroethyl methylamine	(51-75-2)
	HN3: Tris (2-chloroethyl) amine	(555-77-1)
(7)	Saxitoxin	(35523-89-8)
(8)	Ricin	(9009-86-3)
B.	PRECURSORS:	
(9)	Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides	
	e.g. DF: Methylphosphonyldifluoride	(676-99-3)
(10)	O-Alkyl (H or ≤C_{10}, incl. cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts	
	eg. QL: O-Ethyl O-2 diisopropylaminoethyl methylphosphonite	(57856-11-8)
(11)	Chlorosarin: O-Isopropyl methylphosphonochloridate	(1445-76-7)
(12)	Chlorosoman: O-Pinacolyl methylphosphonochloridate	(7040-57-5)

Notes:

1. This Schedule sets out Schedule 1 to the annex on chemicals to the Convention as corrected.

2. In this Schedule the reference to the CAS registry is to the chemical abstract service registry.

3. This Schedule must be read subject to the following proposition, which is based on a note in the Convention: where reference is made to groups of dialkylated chemicals, followed by a list of alkyl groups in parentheses, all chemicals possible by all possible combinations of alkyl groups listed in the parentheses must be taken to be listed in the Schedule.

© Crown copyright 1996

PRINTED IN THE UNITED KINGDOM BY MIKE LYNN
Controller and Chief Executive of Her Majesty's Stationery Office
and Queen's Printer of Acts of Parliament

LONDON: HMSO