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Anti-Personnel Mines Prohibition Act 1998

Public Act 1998 No 111
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Commencement see section 1(2)

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Foreign Affairs and Trade.

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	Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	

An Act to implement in the law of New Zealand the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction

1 Short Title and commencement

- (1) This Act may be cited as the Anti-Personnel Mines Prohibition Act 1998.
- (2) This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Preliminary provisions**

Interpretation

2 Interpretation

- (1) In this Act, unless the context otherwise requires,—

anti-handling device means a device intended to protect a mine and which is part of, linked to, attached to, or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine

anti-personnel mine has the meaning given to it by section 3

authorised anti-personnel mine means an anti-personnel mine authorised under section 11

Convention means the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, done at Oslo on 18 September 1997 (a copy of the English text of which is set out in the Schedule); and includes any amendments to the Convention made in accordance with Article 13 of the Convention that are, or will become, binding on New Zealand from time to time

enforcement officer has the meaning given to it by the Hazardous Substances and New Organisms Act 1996

inspector of explosives has the meaning given to it by the Explosives Act 1957

mine means a munition designed to be placed under, on, or near the ground or other surface area and to be exploded by the presence, proximity, or contact of a person or a vehicle

Minister means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

officer has the meaning given to it by section 4

place includes any area, building, conveyance, or installation in New Zealand where facts relevant to a compliance issue could be expected to be collected

Secretary means the chief executive of the Ministry

transfer includes importation into, and exportation from, New Zealand.

- (2) Terms and expressions used and not defined in this Act, unless the context otherwise requires, have the same meaning as in the Convention.

3 Meaning of anti-personnel mine

For the purposes of this Act, **anti-personnel mine**—

- (a) means a mine designed to be exploded by the presence, proximity, or contact of a person, and that is capable of incapacitating, injuring, or killing 1 or more persons; but
- (b) does not include a mine designed to be detonated by the presence, proximity, or contact of a vehicle as opposed to a person and equipped with an anti-handling device.

4 Meaning of officer

- (1) For the purposes of this Act, **officer** means—
- (a) a Police employee:
 - (b) a member of the Armed Forces:
 - (c) a Customs officer:
 - (d) an inspector of explosives:
 - (e) an enforcement officer:
 - (f) a person appointed under subsection (2).
- (2) The Minister may from time to time, by notice in writing, appoint any person to—

- (a) use, develop, produce, otherwise acquire, possess, retain, or transfer an authorised anti-personnel mine for the purposes of developing, or training persons in, techniques of mine detection, mine clearance, mine deactivation, or mine destruction:
- (b) seize, receive, or acquire an anti-personnel mine for the purposes of deactivating or destroying the mine:
- (c) retain an anti-personnel mine pending the deactivation or destruction of the mine:
- (d) transfer an anti-personnel mine for the purposes of deactivating or destroying the mine:
- (e) deactivate or destroy an anti-personnel mine:
- (f) accompany or assist a member of a fact-finding mission.

Section 4(1)(a): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Purpose of this Act

5 Purpose

- (1) The purpose of this Act is to implement New Zealand's obligations under the Convention.
- (2) Every person exercising a power or discretion conferred under this Act must have regard to New Zealand's obligations under the Convention.

Compare: 1996 No 37 s 4

Act binds the Crown

6 Crown bound

This Act binds the Crown.

Part 2

Prohibitions and offences related to anti-personnel mines

7 Prohibitions and offences

- (1) No person may—
 - (a) use an anti-personnel mine; or
 - (b) develop, produce, or otherwise acquire an anti-personnel mine; or
 - (c) possess, retain, or stockpile an anti-personnel mine; or
 - (d) transfer to anyone, directly or indirectly, an antipersonnel mine; or
 - (e) assist, encourage, or induce, in any way, anyone to engage in conduct referred to in paragraphs (a) to (d).

- (2) Every person who engages in conduct prohibited by subsection (1) commits an offence.
- (3) Every person who commits an offence against subsection (2) is liable on conviction to imprisonment for a term not exceeding 7 years or a fine not exceeding \$500,000.
- (4) Nothing in this section limits—
 - (a) the Explosives Act 1957; or
 - (b) the provisions of the Arms Act 1983 relating to restricted weapons; or
 - (c) the Hazardous Substances and New Organisms Act 1996.

Compare: Anti-Personnel Mines Convention Implementation Act 1997 ch 33 s 6(1) (Canada)

Section 7(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

8 Exceptions to prohibitions

Despite section 7(1),—

- (a) an officer may, in the course of his or her employment or duties, use, develop, produce, otherwise acquire, possess, retain, or transfer an authorised anti-personnel mine for the purposes of developing, or training persons in, techniques of mine detection, mine clearance, mine deactivation, or mine destruction:
- (b) a person may possess an anti-personnel mine until an officer collects, deactivates, or destroys the mine, and a person may make an anti-personnel mine available to an officer for collection, deactivation, or destruction, if, in either case, the person—
 - (i) complies with section 13; and
 - (ii) as soon as practicable after learning that he or she possesses the mine, takes all reasonable steps to ensure the mine will not be exploded before an officer collects, deactivates, or destroys it:
- (c) an officer may, in the course of his or her employment or duties, seize, receive, or acquire an anti-personnel mine for the purposes of deactivating or destroying the mine, or retain an anti-personnel mine pending the deactivation or destruction of the mine, or transfer an anti-personnel mine for the purposes of deactivating or destroying the mine, or deactivate or destroy an anti-personnel mine:
- (d) a member of the Armed Forces may, in the course of his or her duties, participate in operations, exercises, or other military activities with armed forces of a State not a party to the Convention that engage in conduct prohibited by section 7(1), if that participation does not amount to active assistance in the prohibited conduct.

Compare: Anti-Personnel Mines Convention Implementation Act 1997 ch 33 ss 6(3), 7 (Canada)

Part 3

Seizure, forfeiture, and deactivation or destruction of anti-personnel mines

9 Seizure, forfeiture, and deactivation or destruction of anti-personnel mines

An anti-personnel mine in respect of which an offence against section 7(2) has been committed—

- (a) may be seized without warrant by an officer; and
- (b) if not owned by the Crown, is forfeit to the Crown; and
- (c) must either be—
 - (i) authorised under section 11; or
 - (ii) deactivated or destroyed by an officer and, pending deactivation or destruction, be retained as the Minister thinks fit.

Compare: 1996 No 37 s 7; Anti-Personnel Mines Convention Implementation Act 1997 ch 33 ss 8, 9 (Canada)

10 Application of Customs and Excise Act 2018

All the provisions of the Customs and Excise Act 2018 that apply to prohibited imports and prohibited exports (except the penalty for an offence against section 388(1)(a) or (b) of that Act) apply to anti-personnel mines whose importation and exportation is prohibited by section 7(1)(d) of this Act as if the importation and exportation of the mines were prohibited under subpart 4 of Part 3 of the Customs and Excise Act 2018.

Section 10: replaced, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

11 Minister may authorise anti-personnel mines for certain purposes

- (1) For the purposes of developing, or training persons in, techniques of mine detection, mine clearance, mine deactivation, or mine destruction, the Minister may from time to time, by notice in writing, authorise anti-personnel mines to be used, developed, produced, otherwise acquired, possessed, retained, or transferred.
- (2) A notice under subsection (1) may not be made if the making of the notice will result in the total number of mines authorised by all notices made under subsection (1) exceeding the number determined for the time being by the Minister under subsection (3).
- (3) The Minister must from time to time specify, by notice in the *Gazette*, the number of anti-personnel mines determined by the Minister to be the number that for the time being are absolutely necessary for the purposes referred to in subsection (1).

Compare: Anti-Personnel Mines Convention Implementation Act 1997 ch 33 s 10 (Canada)

Part 4

Information and documents

12 Purpose of this Part

- (1) The purpose of this Part is to ensure—
 - (a) that anti-personnel mines are used, developed, produced, otherwise acquired, retained, or transferred only for purposes not prohibited under the Convention; and
 - (b) that the Secretary has knowledge of dealings with anti-personnel mines that facilitates the making of New Zealand's reports or clarifications under the Convention; and
 - (c) that New Zealand is otherwise able to fulfil its obligations under the Convention.
- (2) Any power under this Part may be exercised only for that purpose.

Compare: 1996 No 37 s 12

13 Supply of information

- (1) Any person who uses, develops, produces, otherwise acquires, possesses, retains, or transfers an anti-personnel mine must—
 - (a) notify the Minister of the anti-personnel mine as soon as practicable after this Act commences to apply to the mine, by giving written notice in a form approved by the Secretary and containing the information required by the form; and
 - (b) keep records in relation to the anti-personnel mine, and the purpose to which the anti-personnel mine is put; and
 - (c) prepare, from those records, periodic reports relating to the anti-personnel mine in a form approved by the Secretary; and
 - (d) send those periodic reports to the Secretary at intervals specified by the Minister or by regulations made under this Act.
- (2) The records and reports under subsection (1)(b) to (d) must be sufficient to enable the Minister to determine whether the Convention and the provisions of this Act and any regulations made under this Act are being complied with.
- (3) Every person who, without reasonable excuse, refuses or fails to comply with subsection (1) commits an offence.
- (4) Every person who commits an offence against subsection (3) is liable on conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding \$100,000.

Compare: 1996 No 37 s 13

Section 13(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

14 Secretary may seek information

- (1) This section applies if the Secretary considers that any person is capable of giving information that is relevant to—
 - (a) a report or clarification required to be given by New Zealand to the Secretary-General under the Convention; or
 - (b) the implementation of the Convention or the enforcement of this Act.
- (2) The Secretary may, by written notice given to a person, require the person to give to the Secretary such information as is specified in the notice, within such reasonable period and in such manner as is specified in the notice.
- (3) Information required by a notice under subsection (2) must be given in writing and,—
 - (a) if given by a natural person, must be signed by the person; and
 - (b) if given by a body corporate, must be signed by an officer authorised to sign on behalf of the body corporate.
- (4) The Secretary may, by written notice given to a person, require the person to give to the Secretary particular documents, or documents of a particular kind, specified in the notice, within such reasonable period as is specified in the notice.
- (5) The power of the Secretary under this section to require a person to give information or documents to the Secretary is in addition to any obligation to give information or documents that the person may have under section 13.

Compare: 1996 No 37 s 14

15 Failure to supply information an offence

- (1) Every person commits an offence who, without reasonable excuse, fails to comply with a notice under section 14 to the extent that the person is capable of complying with it.
- (2) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding \$100,000.

Section 15(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

16 False or misleading statements and documents

- (1) Every person commits an offence who, in any document prepared under this Part, makes a statement or omits any matter knowing that, or being reckless as to whether, the statement or omission makes the document false or misleading in a material particular.

- (2) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding \$100,000.

Compare: 1996 No 37 s 15

Section 16(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 5

Fact-finding missions

Purpose of this Part

17 Purpose of this Part

The purpose of this Part is to facilitate fact-finding missions under the Convention by—

- (a) confirming the right of members of a fact-finding mission to inspect places in New Zealand in accordance with the Convention; and
- (b) enabling New Zealand officers to secure access for a member of a fact-finding mission where consent is not, or may not be, obtainable; and
- (c) enabling New Zealand officers to accompany or assist a member of a fact-finding mission.

Compare: 1996 No 37 s 16

Access by fact-finding missions

18 Fact-finding missions

A member of a fact-finding mission has the right, and every person must permit a member of a fact-finding mission, to—

- (a) enter a place in accordance with the Convention; and
- (b) inspect the place in accordance with the Convention; and
- (c) exercise, in connection with the fact-finding mission, a function contemplated, or a power provided for, in the Convention.

Compare: 1996 No 37 s 18

19 Officers who may accompany member of fact-finding mission

- (1) To facilitate a fact-finding mission, a member of a fact-finding mission may be accompanied by any officer.
- (2) Despite subsection (1), a person appointed by the Minister under section 4(2) may not accompany a member of a particular fact-finding mission unless that person is also appointed under section 4(2)(f) to accompany or assist that member.

Directions

20 Ministerial directions

- (1) The Minister may, by notice in writing, issue directions to any person for the purpose of facilitating any fact-finding mission under the Convention.
- (2) The Minister may, under subsection (1), direct a person to provide to a fact-finding mission, by speaking to a member of the mission or otherwise, any information related to a compliance issue specified in a direction, within such reasonable period as is specified in the direction.
- (3) Every person commits an offence who wilfully fails to comply with a direction given by the Minister under this section.
- (4) Every person who commits an offence against subsection (3) is liable on conviction to a fine not exceeding \$100,000.

Compare: 1996 No 37 s 20

Section 20(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

New Zealand assistance with fact-finding missions

21 Identification certificates

The Minister may issue a certificate identifying any member of a fact-finding mission or any officer who may accompany a member of a fact-finding mission.

Compare: 1996 No 37 s 22

Enforcement

22 Search warrants

- (1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who, on an application made in the manner provided in subpart 3 of Part 4 of the Search and Surveillance Act 2012, is satisfied that there are reasonable grounds for believing that entry to a place by a member of a fact-finding mission is necessary for the purpose of exercising any function contemplated, or any power provided for, in the Convention, may issue a search warrant in respect of the place.
- (2) An application under subsection (1)—
 - (a) may not be made unless the consent of a person in control of the place is not, or may not be, obtainable; and
 - (b) *[Repealed]*
 - (c) must include a copy of relevant provisions of the Convention and a copy of the documents (if any) authorising the fact-finding mission.

- (3) For the purposes of subsection (2)(a), **consent** means consent to a member of a fact-finding mission, and any officer who may accompany the member, entering the place to exercise any function contemplated, or any power provided for, in the Convention.
- (4) The provisions of subparts 1, 3, 4, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply.

Section 22(1): amended, on 1 October 2012, by section 311(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 22(2)(b): repealed, on 1 October 2012, by section 311(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 22(4): replaced, on 1 October 2012, by section 311(4) of the Search and Surveillance Act 2012 (2012 No 24).

23 Obligations of officers accompanying member of fact-finding mission

- (1) Every officer who accompanies a member of a fact-finding mission on an inspection—
 - (a) must carry any identification certificate issued to him or her under section 21 or another means of identifying himself or herself as an officer who may accompany a member of a fact-finding mission; and
 - (b) must produce the identification certificate or other means of identification to any person appearing to be in charge of a place entered—
 - (i) on entering the place (if such a person is then present); and
 - (ii) at any reasonable time afterwards, if asked to do so by the person; and
 - (c) must have any warrant (whether issued under section 22 or otherwise) authorising entry to the place with him or her and produce it if required to do so; and
 - (d) if any thing is seized, must ensure that an occupier or person in charge of the place is given a written inventory of all things seized.
- (2) If there is no person appearing to be in charge of the place at any time between the time of entry and the time the inspection concerned has been completed, every officer who accompanies a member of a fact-finding mission on the inspection must, as soon as practicable after the inspection is completed, ensure that an occupier or person in charge of the place is given a written notice stating that the place has been entered, and specifying—
 - (a) the time and date of entry;
 - (b) the circumstances and purpose of entry;
 - (c) the name of every person entering.
- (3) If an officer who is not a constable discovers any offence or suspected offence against this Act as a result of accompanying a member of a fact-finding mis-

sion on an inspection, the officer must report that offence or suspected offence to the Police as soon as practicable after the completion of that inspection.

Compare: 1996 No 37 s 25

Section 23(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

24 Obstruction of member of fact-finding mission

- (1) Every person commits an offence who wilfully obstructs, hinders, resists, or deceives any member of a fact-finding mission who is exercising in New Zealand any function contemplated, or any power provided for, in the Convention.
- (2) Nothing in subsection (1) applies to a refusal to give consent to entry by a member of a fact-finding mission who is not acting pursuant to a search warrant (whether issued under section 22 or otherwise).
- (3) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$20,000.

Compare: 1996 No 37 s 26

Section 24(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 6 Miscellaneous provisions

Self-incrimination

25 Self-incrimination

- (1) A person is not excused from answering a question or giving any information or document under this Act or the Convention on the ground that to do so may incriminate or tend to incriminate that person.
- (2) A self-incriminating statement or document made or given under this Act or the Convention is not admissible as evidence in criminal proceedings against that person except on the prosecution of that person for an offence against section 16(1) in relation to that statement or document.

Compare: 1996 No 37 s 28

Regulations

26 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - (a) providing for any matter that is necessary or desirable for the purpose of implementing the Convention:

- (b) prescribing offences in respect of the contravention of or non-compliance with any provision of any regulations made under this section, and prescribing fines, not exceeding \$5,000, that may, on conviction, be imposed in respect of any such offence:
 - (c) providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.
- (2) The Governor-General may from time to time, by Order in Council,—
- (a) amend the Schedule by making such amendments to the text of the Convention set out in that schedule as are required to bring that text up to date:
 - (b) revoke the Schedule, and substitute a new schedule setting out in an up-to-date form the text of the Convention.
- (3) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):
- (a) regulations under this section:
 - (b) an order under subsection (2).

Compare: 1996 No 37 s 29

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 26(1)(b): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 26(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Application to Tokelau

27 Application to Tokelau

- (1) Subject to subsections (2) to (4), this Act is in force in Tokelau.
- (2) A prosecution for an offence under this Act alleged to have been committed in Tokelau is to be heard and determined by the High Court of New Zealand in the exercise of its powers under section 3 of the Tokelau Amendment Act 1986.
- (3) An application for a search warrant under section 22(1) in respect of a place in Tokelau is to be heard and determined by a Judge of the High Court of New Zealand.
- (4) In the application of this Act to Tokelau, unless the context otherwise requires,—

- (a) a reference in this Act to New Zealand (when used as a territorial description) is a reference to Tokelau:
- (b) the reference to the Minister in section 20 is a reference to the Council of Faipule.

Amendments to Arms Act 1983

28 Interpretation

Amendment(s) incorporated in the Act(s).

29 Act to bind the Crown

Amendment(s) incorporated in the Act(s).

30 Further amendments to Arms Act 1983

Amendment(s) incorporated in the Act(s).

Schedule
**Convention on the Prohibition of the Use, Stockpiling, Production
and Transfer of Anti-Personnel Mines and on their Destruction**

s 2(1)

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[This table is not part of the Convention and is included for convenience]

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Preamble

The States Parties,

Determined to put an end to the suffering and casualties caused by anti-personnel mines, that kill or maim hundreds of people every week, mostly innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, inhibit the repatriation of refugees and internally displaced persons, and have other severe consequences for years after emplacement,

Believing it necessary to do their utmost to contribute in an efficient and coordinated manner to face the challenge of removing anti-personnel mines placed throughout the world, and to assure their destruction,

Wishing to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims,

Recognizing that a total ban of anti-personnel mines would also be an important confidence-building measure,

Welcoming the adoption of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and calling for the early ratification of this Protocol by all States which have not yet done so,

Welcoming also United Nations General Assembly Resolution 51/45 S of 10 December 1996 urging all States to pursue vigorously an effective, legally-binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines,

Welcoming furthermore the measures taken over the past years, both unilaterally and multilaterally, aiming at prohibiting, restricting or suspending the use, stockpiling, production and transfer of anti-personnel mines,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the call for a total ban of anti-personnel mines and recognizing the efforts to that end undertaken by the International Red Cross and Red Crescent Movement, the International Campaign to Ban Landmines and numerous other non-governmental organizations around the world,

Recalling the Ottawa Declaration of 5 October 1996 and the Brussels Declaration of 27 June 1997 urging the international community to negotiate an international and legally binding agreement prohibiting the use, stockpiling, production and transfer of anti-personnel mines,

Emphasizing the desirability of attracting the adherence of all States to this Convention, and determined to work strenuously towards the promotion of its universalization in all relevant fora including, inter alia, the United Nations, the Conference on Disarmament, regional organizations, and groupings, and review conferences of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects,

Basing themselves on the principle of international humanitarian law that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited, on the principle that prohibits the employment in armed conflicts of weapons, projectiles and materials and methods of warfare of a nature to cause superfluous injury or unnecessary suffering and on the principle that a distinction must be made between civilians and combatants,

Have agreed as follows:

Article 1

General obligations

1. Each State Party undertakes never under any circumstances:
 - (a) To use anti-personnel mines;
 - (b) To develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines;
 - (c) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.
2. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in accordance with the provisions of this Convention.

Article 2

Definitions

1. “Anti-personnel mine” means a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. Mines designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped.
2. “Mine” means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle.
3. “Anti-handling device” means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine.
4. “Transfer” involves, in addition to the physical movement of anti-personnel mines into or from national territory, the transfer of title to and control over the mines, but does not involve the transfer of territory containing emplaced anti-personnel mines
5. “Mined area” means an area which is dangerous due to the presence or suspected presence of mines.

Article 3

Exceptions

1. Notwithstanding the general obligations under Article 1, the retention or transfer of a number of anti-personnel mines for the development of and training in mine detection, mine clearance, or mine destruction techniques is permitted. The amount of such mines shall not exceed the minimum number absolutely necessary for the above-mentioned purposes.

2. The transfer of anti-personnel mines for the purpose of destruction is permitted.

Article 4

Destruction of stockpiled anti-personnel mines

Except as provided for in Article 3, each State Party undertakes to destroy or ensure the destruction of all stockpiled anti-personnel mines it owns or possesses, or that are under its jurisdiction or control, as soon as possible but not later than four years after the entry into force of this Convention for that State Party.

Article 5

Destruction of anti-personnel mines in mined areas

1. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party.
2. Each State Party shall make every effort to identify all areas under its jurisdiction or control in which anti-personnel mines are known or suspected to be emplaced and shall ensure as soon as possible that all anti-personnel mines in mined areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians, until all anti-personnel mines contained therein have been destroyed. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.
3. If a State Party believes that it will be unable to destroy or ensure the destruction of all anti-personnel mines referred to in paragraph 1 within that time period, it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such anti-personnel mines, for a period of up to ten years.
4. Each request shall contain:
 - (a) The duration of the proposed extension;
 - (b) A detailed explanation of the reasons for the proposed extension, including:
 - (i) The preparation and status of work conducted under national demining programs;
 - (ii) The financial and technical means available to the State Party for the destruction of all the anti-personnel mines; and

- (iii) Circumstances which impede the ability of the State Party to destroy all the anti-personnel mines in mined areas;
 - (c) The humanitarian, social, economic, and environmental implications of the extension; and
 - (d) Any other information relevant to the request for the proposed extension.
5. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.
6. Such an extension may be renewed upon the submission of a new request in accordance with paragraphs 3, 4 and 5 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

Article 6

International cooperation and assistance

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance, where feasible, from other States Parties to the extent possible.
2. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment, material and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision of mine clearance equipment and related technological information for humanitarian purposes.
3. Each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organizations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organizations, or on a bilateral basis.
4. Each State Party in a position to do so shall provide assistance for mine clearance and related activities. Such assistance may be provided, *inter alia*, through the United Nations system, international or regional organizations or institutions, non-governmental organizations or institutions, or on a bilateral basis, or by contributing to the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, or other regional funds that deal with demining.
5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled anti-personnel mines.

6. Each State Party undertakes to provide information to the database on mine clearance established within the United Nations system, especially information concerning various means and technologies of mine clearance, and lists of experts, expert agencies or national points of contact on mine clearance.
7. States Parties may request the United Nations, regional organizations, other States Parties or other competent intergovernmental or non-governmental fora to assist its authorities in the elaboration of a national demining program to determine, *inter alia*:
 - (a) The extent and scope of the anti-personnel mine problem;
 - (b) The financial, technological and human resources that are required for the implementation of the program;
 - (c) The estimated number of years necessary to destroy all anti-personnel mines in mined areas under the jurisdiction or control of the concerned State Party;
 - (d) Mine awareness activities to reduce the incidence of mine-related injuries or deaths;
 - (e) Assistance to mine victims;
 - (f) The relationship between the Government of the concerned State Party and the relevant governmental, intergovernmental or non-governmental entities that will work in the implementation of the program.
8. Each State Party giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programs.

Article 7

Transparency measures

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party on:
 - (a) The national implementation measures referred to in Article 9;
 - (b) The total of all stockpiled anti-personnel mines owned or possessed by it, or under its jurisdiction or control, to include a breakdown of the type, quantity and, if possible, lot numbers of each type of anti-personnel mine stockpiled;
 - (c) To the extent possible, the location of all mined areas that contain, or are suspected to contain, anti-personnel mines under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of anti-personnel mine in each mined area and when they were emplaced;

- (d) The types, quantities and, if possible, lot numbers of all anti-personnel mines retained or transferred for the development of and training in mine detection, mine clearance or mine destruction techniques, or transferred for the purpose of destruction, as well as the institutions authorized by a State Party to retain or transfer anti-personnel mines, in accordance with Article 3;
 - (e) The status of programs for the conversion or de-commissioning of anti-personnel mine production facilities;
 - (f) The status of programs for the destruction of anti-personnel mines in accordance with Articles 4 and 5, including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
 - (g) The types and quantities of all anti-personnel mines destroyed after the entry into force of this Convention for that State Party, to include a breakdown of the quantity of each type of anti-personnel mine destroyed, in accordance with Articles 4 and 5, respectively, along with, if possible, the lot numbers of each type of anti-personnel mine in the case of destruction in accordance with Article 4;
 - (h) The technical characteristics of each type of anti-personnel mine produced, to the extent known, and those currently owned or possessed by a State Party, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of anti-personnel mines; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information which may facilitate mine clearance; and
 - (i) The measures taken to provide an immediate and effective warning to the population in relation to all areas identified under paragraph 2 of Article 5.
2. The information provided in accordance with this Article shall be updated by the States Parties annually, covering the last calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.
 3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties

Article 8

Facilitation and clarification of compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.

2. If one or more States Parties wish to clarify and seek to resolve questions relating to compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information which would assist in clarifying this matter.
3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of the States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.
4. Pending the convening of any meeting of the States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.
5. The requesting State Party may propose through the Secretary-General of the United Nations the convening of a Special Meeting of the States Parties to consider the matter. The Secretary-General of the United Nations shall thereupon communicate this proposal and all information submitted by the States Parties concerned, to all States Parties with a request that they indicate whether they favour a Special Meeting of the States Parties, for the purpose of considering the matter. In the event that within 14 days from the date of such communication, at least one third of the States Parties favours such a Special Meeting, the Secretary-General of the United Nations shall convene this Special Meeting of the States Parties within a further 14 days. A quorum for this Meeting shall consist of a majority of States Parties.
6. The Meeting of the States Parties or the Special Meeting of the States Parties, as the case may be, shall first determine whether to consider the matter further, taking into account all information submitted by the States Parties concerned. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach a decision by consensus. If despite all efforts to that end no agreement has been reached, it shall take this decision by a majority of States Parties present and voting.
7. All States Parties shall cooperate fully with the Meeting of the States Parties or the Special Meeting of the States Parties in the fulfilment of its review of the matter, including any fact-finding missions that are authorized in accordance with paragraph 8.

8. If further clarification is required, the Meeting of the States Parties or the Special Meeting of the States Parties shall authorize a fact-finding mission and decide on its mandate by a majority of States Parties present and voting. At any time the requested State Party may invite a fact-finding mission to its territory. Such a mission shall take place without a decision by a Meeting of the States Parties or a Special Meeting of the States Parties to authorize such a mission. The mission, consisting of up to nine experts, designated and approved in accordance with paragraphs 9 and 10, may collect additional information on the spot or in other places directly related to the alleged compliance issue under the jurisdiction or control of the requested State Party.
9. The Secretary-General of the United Nations shall prepare and update a list of the names, nationalities and other relevant data of qualified experts provided by States Parties and communicate it to all States Parties. Any expert included on this list shall be regarded as designated for all fact-finding missions unless a State Party declares its non-acceptance in writing. In the event of non-acceptance, the expert shall not participate in fact-finding missions on the territory or any other place under the jurisdiction or control of the objecting State Party, if the non-acceptance was declared prior to the appointment of the expert to such missions.
10. Upon receiving a request from the Meeting of the States Parties or a Special Meeting of the States Parties, the Secretary-General of the United Nations shall, after consultations with the requested State Party, appoint the members of the mission, including its leader. Nationals of States Parties requesting the fact-finding mission or directly affected by it shall not be appointed to the mission. The members of the fact-finding mission shall enjoy privileges and immunities under Article VI of the Convention on the Privileges and Immunities of the United Nations, adopted on 13 February 1946.
11. Upon at least 72 hours notice, the members of the fact-finding mission shall arrive in the territory of the requested State Party at the earliest opportunity. The requested State Party shall take the necessary administrative measures to receive, transport and accommodate the mission, and shall be responsible for ensuring the security of the mission to the maximum extent possible while they are on territory under its control.
12. Without prejudice to the sovereignty of the requested State Party, the fact-finding mission may bring into the territory of the requested State Party the necessary equipment which shall be used exclusively for gathering information on the alleged compliance issue. Prior to its arrival, the mission will advise the requested State Party of the equipment that it intends to utilize in the course of its fact-finding mission.
13. The requested State Party shall make all efforts to ensure that the fact-finding mission is given the opportunity to speak with all relevant persons who may be able to provide information related to the alleged compliance issue.

14. The requested State Party shall grant access for the fact-finding mission to all areas and installations under its control where facts relevant to the compliance issue could be expected to be collected. This shall be subject to any arrangements that the requested State Party considers necessary for:
- (a) The protection of sensitive equipment, information and areas;
 - (b) The protection of any constitutional obligations the requested State Party may have with regard to proprietary rights, searches and seizures, or other constitutional rights; or
 - (c) The physical protection and safety of the members of the fact-finding mission.

In the event that the requested State Party makes such arrangements, it shall make every reasonable effort to demonstrate through alternative means its compliance with this Convention.

15. The fact-finding mission may remain in the territory of the State Party concerned for no more than 14 days, and at any particular site no more than 7 days, unless otherwise agreed.
16. All information provided in confidence and not related to the subject matter of the fact-finding mission shall be treated on a confidential basis.
17. The fact-finding mission shall report, through the Secretary-General of the United Nations, to the Meeting of the States Parties or the Special Meeting of the States Parties the results of its findings.
18. The Meeting of the States Parties or the Special Meeting of the States Parties shall consider all relevant information, including the report submitted by the fact-finding mission, and may request the requested State Party to take measures to address the compliance issue within a specified period of time. The requested State Party shall report on all measures taken in response to this request.
19. The Meeting of the States Parties or the Special Meeting of the States Parties may suggest to the States Parties concerned ways and means to further clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of the States Parties or the Special Meeting of the States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6.
20. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach its decisions referred to in paragraphs 18 and 19 by consensus, otherwise by a two-thirds majority of States Parties present and voting.

Article 9

National implementation measures

Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

Article 10

Settlement of disputes

1. The States Parties shall consult and cooperate with each other to settle any dispute that may arise with regard to the application or the interpretation of this Convention. Each State Party may bring any such dispute before the Meeting of the States Parties.
2. The Meeting of the States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties to a dispute to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.
3. This Article is without prejudice to the provisions of this Convention on facilitation and clarification of compliance.

Article 11

Meetings of the States Parties

1. The States Parties shall meet regularly in order to consider any matter with regard to the application or implementation of this Convention, including:
 - (a) The operation and status of this Convention;
 - (b) Matters arising from the reports submitted under the provisions of this Convention;
 - (c) International cooperation and assistance in accordance with Article 6;
 - (d) The development of technologies to clear anti-personnel mines;
 - (e) Submissions of States Parties under Article 8; and
 - (f) Decisions relating to submissions of States Parties as provided for in Article 5.
2. The First Meeting of the States Parties shall be convened by the Secretary-General of the United Nations within one year after the entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.
3. Under the conditions set out in Article 8, the Secretary-General of the United Nations shall convene a Special Meeting of the States Parties.

4. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend these meetings as observers in accordance with the agreed Rules of Procedure.

Article 12

Review Conferences

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.
2. The purpose of the Review Conference shall be:
 - (a) To review the operation and status of this Convention;
 - (b) To consider the need for and the interval between further Meetings of the States Parties referred to in paragraph 2 of Article 11;
 - (c) To take decisions on submissions of States Parties as provided for in Article 5; and
 - (d) To adopt, if necessary, in its final report conclusions related to the implementation of this Convention.
3. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

Article 13

Amendments

1. At any time after the entry into force of this Convention any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Depositary no later than 30 days after its circulation that they support further consideration of the proposal, the Depositary shall convene an Amendment Conference to which all States Parties shall be invited.
2. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental

- organizations may be invited to attend each Amendment Conference as observers in accordance with the agreed Rules of Procedure.
3. The Amendment Conference shall be held immediately following a Meeting of the States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.
 4. Any amendment to this Convention shall be adopted by a majority of two thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to the States Parties.
 5. An amendment to this Convention shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article 14

Costs

1. The costs of the Meetings of the States Parties, the Special Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.
2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 and the costs of any fact-finding mission shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

Article 15

Signature

This Convention, done at Oslo, Norway, on 18 September 1997, shall be open for signature at Ottawa, Canada, by all States from 3 December 1997 until 4 December 1997, and at the United Nations Headquarters in New York from 5 December 1997 until its entry into force.

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval of the Signatories.
2. It shall be open for accession by any State which has not signed the Convention.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 17

Entry into force

1. This Convention shall enter into force on the first day of the sixth month after the month in which the 40th instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State which deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 40th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

Article 18

Provisional application

Any State may at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally paragraph 1 of Article 1 of this Convention pending its entry into force.

Article 19

Reservations

The Articles of this Convention shall not be subject to reservations.

Article 20

Duration and withdrawal

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating this withdrawal.
3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.
4. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.

Article 21
Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

Article 22
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

Notes

1 *General*

This is a consolidation of the Anti-Personnel Mines Prohibition Act 1998 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Criminal Procedure Act 2011 (2011 No 81): section 413

Search and Surveillance Act 2012 (2012 No 24): section 311

Policing Act 2008 (2008 No 72): sections 116(a)(ii), 130(1)