



Uimhir 20 de 2008

**AN tACHT UM CHNUAS-MHUINISIN AGUS MIANAIGH
FHRITHPHEARSANRA 2008**

[An tiontú oifigiúil]

RIAR NA nALT

CUID 1

RÉAMHRÁITEACH AGUS GINEARÁLTA

Alt

1. Gearrtheideal agus tosach feidhme.
2. Léiriú.
3. Orduithe a leagan faoi bhráid Thithe an Oireachtais.
4. Caiteachais.

CUID 2

CNUAS-MHUINISIN AGUS BUAIMÍNÍ PLÉASCACHA

5. Orduithe.
6. Cionta.
7. Iompar ceadaithe.

CUID 3

MIANAIGH FHRITHPHEARSANRA

8. Orduithe.
9. Cionta.
10. Iompar ceadaithe.

CUID 4

AIRGEAD POIBLÍ A INFHEISTIÚ

11. Mínithe (*Cuid 4*).
12. Dualgas infheisteoirí infheistíocht i gcuideachta mhuinisean a sheachaint.

[Uimh. 20.] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

13. Infheistíocht dhíreach i gcuideachta mhuinisean.
14. Infheistíocht neamhdhíreach i gcuideachta mhuinisean.
15. Díorthaigh bunaithe ar innéacs airgeadais.

CUID 5

PIONÓIS AGUS FORÁLACHA ILGHNÉITHEACHA

16. Faisnéis a sholáthar.
17. Pionóis.
18. Dliteanas i leith cionta arna ndéanamh ag comhlacht corpraithe.
19. Forghéilleadh.

SCEIDEAL 1

AN COINBHINSIÚN AR CHNUAS-MHUINISIN

SCEIDEAL 2

AN COINBHINSIÚN MAIDIR LE TOIRMEASC AR ÚSÁID, STOC-CHARNADH,
TÁIRGEADH AGUS AISTRÍÚ MIANACH FRITHPHEARSANRA AGUS MAIDIR
LENA NDÍOTHÚ

NA HACHTANNA DÁ DTAGRÁITEAR

Achtanna na gCuideachtaí	
An tAcht Cosanta (Leasú) (Uimh. 2) 1960	1960, Uimh. 44
An tAcht Cosanta (Leasú) 2006	2006, Uimh. 20
An tAcht Loingis Thráchtála 1955	1955, Uimh. 29



Uimhir 20 de 2008

**AN tAcht UM CHNUAS-MHUINISIN AGUS MIANAIGH
FHRITHPHEARSANRA 2008**

[An tiontú oifigiúil]

ACHT DO THABHAIRT ÉIFEACHT DON CHOINBHINSIÚN AR CHNUAS-MHUINISIN, A RINNEADH I mBAILE ÁTHA CLIATH AN 30 BEALTAINÉ 2008, AGUS DO THABHAIRT TUILLEADH ÉIFEACHTA DON CHOINBHINSIÚN MAIDIR LE TOIRMEASC AR ÚSÁID, STOC-CHARNADH, TÁIRGEADH AGUS AISTRIÚ MIANACH FRITHPHEARSANRA AGUS MAIDIR LENA nDÍOTHÚ, A RINNEADH IN OSLÓ AN 18 MEÁN FÓMHAIR 1997, AGUS DO DHÉANAMH SOCRÚ I dTAOBH NITHE GAOLMHARA.

[2 Nollaig, 2008]

ACHTAÍTEAR AG AN OIREACHTAS MAR A LEANAS:

CUID 1

RÉAMHRÁITEACH AGUS GINEARÁLTA

1.—(1) Féadfar an tAcht um Chnuas-Mhuinisin agus Mianaigh Fhrithphearsanra 2008 a ghairm den Acht seo. Gearrtheideal agus tosach feidhme.

(2) Tiocfaidh an tAcht seo i ngníomh cibé lá nó laethanta a cheapfaidh an tAire, le hordú nó le horduithe, i gcoitinne nó faoi threoir aon chríche nó forála áirithe, agus féadfar laethanta éagsúla a cheapadh amhlaidh chun críoch éagsúil nó le haghaidh forálacha éagsúla.

2.—(1) San Acht seo, mura n-éilíonn an comhthéacs a mhalairt— Léiriú.

ciallaíonn “cnuasmhuinisin thréigthe” cnuasmhuinisin nó fomhuinisin phléascacha, cibé acu a ullmhaíodh iad lena n-úsáid nó nár úsáideadh agus a fágadh taobh thiar nó a dumpáladh, agus nach bhfuil faoi rialú an pháirtí a d’fhág taobh thiar iad nó a dhumpáil iad a thuilleadh;

ciallaíonn “feiste frithláimhseála” feiste a bheartaítear mar fheiste chun mianach a chosaint agus is cuid den mhianach, nó atá nasctha leis an mianach nó i gceangal leis nó leagtha faoi agus a

[Uimh. 20.] *An tAcht um Chnuas-Mhuinisin agus [2008.]
Mianaigh Fhrithphearsanra 2008.*

ghníomhachtaítear nuair a dhéantar iarracht baint den mhianach nó é a chorraí ar shlí eile d'aon turas;

ciallaíonn “mianach frithphearsanra” mianach atá deartha le go bpléascfaidh láithreach, gaireacht nó tadhall duine é agus ar féidir dó duine amháin nó níos mó a éagumasú nó a mharú nó díobháil a dhéanamh do dhuine amháin nó níos mó;

ciallaíonn “Coinbhinsiún um Mianaigh Fhrithphearsanra a Chosc” an Coinbhinsiún maidir le Toirmeasc ar Úsáid, Stoc-Charnadh, Táirgeadh agus Aistriú Mianach Frithphearsanra agus maidir lena nDíothú, a rinneadh in Osló an 18 Meán Fómhair 1997, agus a bhfuil an téacs de, sa Bhéarla, leagtha amach mar áis tagartha i *Sceideal 2*;

ciallaíonn “stát de chuid an Choinbhinsiúin um Mianaigh Fhrithphearsanra a Chosc” stát (seachas an Stát) a dhearbhaítear le hordú faoi *alt 8* a bheith ina Stát is Páirtí sa Choinbhinsiún um Mianaigh Fhrithphearsanra a Chosc;

ciallaíonn “cnuasmhuinisean” gnáthmhuinisean atá deartha chun fomhuinisin phléascacha a scaipeadh nó a scaoileadh, ar fomhuinisin iad a bhfuil meáchan gach ceann díobh faoi bhun 20 cileagram, agus folaíonn sé na fomhuinisin phléascacha sin ach ní fholáíonn sé na nithe seo a leanas:

- (a) muinisean nó fomhuinisean atá deartha chun fléaranna, deatach, piriteicnic nó lóchán a scaoileadh, nó muinisean atá deartha go heisiach le haghaidh ról aerchosanta;
- (b) muinisean nó fomhuinisean atá deartha chun éifeachtaí leictreacha nó leictreonacha a thabhairt;
- (c) muinisean a bhfuil, d'fhonn éifeachtaí limistéir neamhidirdhealaitheacha, agus na contúirtí a thagann ó fhomhuinisin nár pléascadh, a sheachaint, na tréithe seo a leanas go léir aige:
 - (i) go bhfuil líon is lú ná 10 bhfomhuinisean pléascach i ngach muinisean;
 - (ii) gur mó ná 4 chileagram meáchan gach fomhuinisin phléascaigh;
 - (iii) go bhfuil gach fomhuinisean pléascach deartha chun aon chuspóir sprice amháin a aimsiú agus dul i ngleic léi;
 - (iv) go bhfuil gach fomhuinisean pléascach feistithe le meicníocht féinscriosta leictreonach;
 - (v) go bhfuil gach fomhuinisean pléascach feistithe le gné fhéin-díghníomhachtach leictreonach;

ciallaíonn an “Coinbhinsiún ar Chnuas-Mhuinisin” an Coinbhinsiún ar Chnuas-Mhuinisin, a rinneadh i mBaile Átha Cliath an 30 Bealtaine 2008, agus a bhfuil an téacs de, sa Bhéarla, leagtha amach mar áis thagartha i *Sceideal 1*;

ciallaíonn “stát de chuid an Choinbhinsiúin ar Chnuas-Mhuinisin” stát (seachas an Stát) a dhearbhaítear le hordú faoi *alt 5* a bheith ina Stát is Páirtí sa Choinbhinsiún ar Chnuas-Mhuinisin;

ciallaíonn “bruscar cnuasmhuinisin” cnuasmhuinisin ar theip orthu, cnuasmhuinisin thréigthe, fomhuinisin neamhphléasctha agus buaimíní neamhphléasctha;

ciallaíonn “scaoilteoir” coimeádán atá deartha chun buaimíní pléascacha a scaipeadh nó a scaoileadh agus atá daingnithe d’aeráthach tráth an scaipthe nó an scaoilte;

ciallaíonn “buaimín pléascach” gnáthmhuinisean, ar lú ná 20 cileagram a mheáchan, nach bhfuil uathghluaisteach agus a scaipeann nó a scaoileann scaoilteoir é chun go gcomhlíonfaidh sé a thasc, agus atá deartha chun go bhfeidhmeoidh sé trí lánán pléascach a mhadhmhadh roimh nó ar imbhualadh nó dá éis;

ciallaíonn “fomhuinisean pléascach” gnáthmhuinisean a scaipeann nó a scaoileann máthairmhuinisean é agus atá deartha chun go bhfeidhmeoidh sé trí lánán pléascach a mhadhmhadh roimh nó ar imbhualadh nó dá éis;

ciallaíonn “cnuasmhuinisean ar theip air” cnuasmhuinisean a caitheadh, a scaoileadh anuas, a lainseáladh, a teilgeadh nó a seachadadh ar shlí eile agus ar cheart go scaipfeadh sé nó go scaoilfeadh sé a fomhuinisin phléascacha ach ar theip air déanamh amhlaidh;

tá le “eagraíocht idirnáisiúnta” an bhrí chéanna atá leis in alt 1 den Acht Cosanta (Leasú) 2006;

tá le “Fórsa Idirnáisiúnta ó na Náisiúin Aontaithe” an bhrí chéanna atá leis in alt 1 den Acht Cosanta (Leasú) 2006;

tá le “long Éireannach” an bhrí chéanna atá leis in alt 9 den Acht Loingis Thráchtála 1955;

ciallaíonn “mianach” muinisean atá deartha lena leagan faoin talamh nó ar an talamh nó gar dó, nó faoi nó ar limistéar dromchla eile nó gar dó, agus atá le pléascadh trí dhuine nó feithicil a bheith ina láthair, i ngaireacht dó nó i dtadhall leis;

ciallaíonn “Aire” an tAire Gnóthaí Eachtracha;

ciallaíonn “féin-díghníomhachtach” muinisean a dhéanamh do-oibrithe go huathoibríoch trí ídiú do-aisiompaithe comhpháirte, ar nós cadhnra, atá riachtanach d’oibriú an mhuinisin;

ciallaíonn “meicníocht féinscriosta” meicníocht uathfheidhmeach ionchorpraithe is meicníocht de bhreis ar phríomh-mheicníocht tionscanta an mhuinisin agus a áirithíonn scriosadh an mhuinisin ina bhfuil sí ionchorpraithe;

folaíonn “aistriú” i ndáil le cnuasmhuinisin, buaimíní pléascacha nó mianaigh fhrithphearsanra, i dteannta gluaiseachta fisiciúla cnuasmhuinisean, buaimíní pléascacha nó mianach frithphearsanra, aistriú teidil chun cnuasmhuinisean, buaimíní pléascacha nó mianach frithphearsanra, nó aistriú rialaithe orthu, ach ní fholáíonn sé aistriú críche ina bhfuil bruscar cnuasmhuinisean nó mianaigh fhrithphearsanra shuite;

ciallaíonn “buaimín neamhphléasctha” buaimín pléascach a scaipeadh, a scaoileadh nó a scaradh ó scaoilteoir ar shlí eile agus ar theip air pléascadh mar a beartaíodh;

ciallaíonn “fomhuinisean neamhpléasctha” fomhuinisean pléascach a scaipeadh nó a scaoileadh ag cnuasmhuinisean, nó a scaradh uaidh ar shlí eile, agus ar theip air pléascadh mar a beartaíodh.

(2) Chun críche an mhíneithe ar “mianach frithphearsanra” i *bhfo-alt (1)*, maidir le mianaigh atá deartha chun go ndéanfaidh feithicil, seachas duine, iad a mhadhmhadh trí bheith ina láthair, i ngaireacht dóibh nó i dtadhall leo, agus atá feistithe le feiste frithláimhseála, ní mheasfar gur mianaigh fhrithphearsanra iad de bhrí amháin go bhfuil siad feistithe amhlaidh.

Orduithe a leagan faoi bhráid Thithe an Oireachtais.

3.—Déanfar gach ordú a dhéanfar faoin Acht seo a leagan faoi bhráid gach Tí den Oireachtas a luaithe is indéanta tar éis a dhéanta agus má dhéanann ceachtar Teach acu sin, laistigh den 21 lá a shuífidh an Teach sin tar éis an t-ordú a leagan faoina bhráid, rún a rith ag neamhniú an ordaithe, beidh an t-ordú ar neamhniú dá réir sin, ach sin gan dochar d’aon ní a rinneadh roimhe sin faoin ordú.

Caiteachais.

4.—Déanfar na caiteachais a thabhoídh an tAire ag riaradh an Achta seo a íoc, a mhéid a cheadóidh an tAire Airgeadais, as airgead a sholáthróidh an tOireachtas.

CUID 2

CNUAS-MHUINISIN AGUS BUAIMÍNÍ PLÉASCACHA

Orduithe.

5.—Chun críocha an Achta seo, féadfaidh an tAire, le hordú, aon stát a shonraítear san ordú a ainmniú mar stát de chuid an Choinbhinsiúin Cnuas-Mhuinisean, agus beidh ordú den sórt sin ina fhianaise gur stát de chuid an Choinbhinsiúin Cnuas-Mhuinisean an stát sin.

Cionta.

6.—(1) Faoi réir *alt 7*, aon duine a dhéanfaidh cnuasmhuinisean nó buaimín pléascach—

- (a) a úsáid,
- (b) a fhorbairt nó a tháirgeadh,
- (c) a fháil,
- (d) a shealbhú nó a choinneáil, nó
- (e) a aistriú chuig duine eile,

beidh sé nó sí ciontach i gcion.

(2) Faoi réir *alt 7*, aon duine a chuideoidh le duine, nó a spreagfaidh nó a aslóidh duine, chun cion faoi *fo-alt (1)* a dhéanamh, beidh sé nó sí ciontach i gcion.

(3) Tá feidhm ag *fo-ailt (1)* agus (2) maidir le gníomh a dhéantar lasmuigh den Stát más rud é, maidir leis an ngníomh—

- (a) gur ar bord loinge Éireannaí a dhéantar é,
- (b) gur in aerárthach atá cláraithe sa Stát a dhéantar é, nó

(c) gur comhalta d'Óglaigh na hÉireann a dhéanann é.

7.—(1) Níl feidhm ag *alt 6* maidir leis na nithe seo a leanas— Iompar ceadaithe.

(a) fáil, sealbhú, úsáid, coinneáil nó aistriú cnuasmhuinisin nó buaimín pléascaigh ag comhalta d'Óglaigh na hÉireann de réir údarú faoi *fho-alt (2)* atá i bhfeidhm, nó

(b) cnuasmhuinisean nó buaimín pléascach a shealbhú, a choinneáil nó a aistriú—

(i) ag comhalta d'Óglaigh na hÉireann i gcúrsa a dhualgas nó a dualgas—

(I) chun an dochar a bhaint as an gcnuasmhuinisean nó as an mbuaimín pléascach sin, nó

(II) chun an cnuasmhuinisean nó an buaimín pléascach sin a scriosadh sa todhchaí,

(ii) ag comhalta den Gharda Síochána—

(I) le linn dó nó di aon chumhacht a thugtar don chomhalta sin le dlí chun cnuasmhuinisean nó buaimín pléascach a urghabháil agus a choinneáil i dtaca le haon imeachtaí coiriúla, nó

(II) d'fhonn an cnuasmhuinisean nó buaimín pléascach sin a sheachadadh ar Óglaigh na hÉireann lena scriosadh, nó

(iii) ag aon duine eile arna cheapadh nó arna ceapadh ag an Aire le barántas i scríbhinn, i gcúrsa dhualgais an duine sin d'fhonn an cnuasmhuinisean nó buaimín pléascach sin a sheachadadh ar Óglaigh na hÉireann lena scriosadh.

(2) Féadfaidh an tAire Cosanta, i gcomhairle leis an Aire, trí fhógra i scríbhinn, a údarú do Cheann Foirne Óglaigh na hÉireann—

(a) faoi réir *fho-alt (3)*, líon sonraithe cnuasmhuinisean nó buaimíní pléascacha a fháil, a choinneáil nó a aistriú chun go ndéanfaidh Óglaigh na hÉireann teicníochtaí a fhorbairt maidir le cnuasmhuinisin nó buaimíní pléascacha a aimsiú, a imréiteach nó a scriosadh, nó oiliúint sa chéanna, nó frithbhearta cnuasmhuinisean a fhorbairt, nó

(b) a cheadú d'Óglaigh na hÉireann líon sonraithe cnuasmhuinisean nó buaimíní pléascacha a aistriú chuig údarás iomchuí stáit de chuid an Choinbhinsiúin ar Chnuas-Mhuinisin chun iad a scriosadh.

(3) Ní rachaidh an líon cnuasmhuinisean nó buaimíní pléascacha a shonrófar i bhfógra faoi *mhír (a) d'fho-alt (2)* thar an líon íosta is fíor-riachtanach chun na gcríoch a luaitear sa mhír sin.

(4) Faoi réir *fho-alt (5)*, níl feidhm ag *alt 6(2)* maidir le haon ghníomh nó neamhghníomh a dhéanann aon duine:

- (a) i gcúrsa a dhualgas nó a dualgas le linn d'Fhórsa Idirnáisiúnta ó na Náisiúin Aontaithe oibríochtaí a phleanáil agus a sheoladh dár thug an Stát díorma de na Buan-Óglaigh de réir alt 2 den Acht Cosanta (Leasú) (Uimh. 2) 1960 agus dár thug stát nach stát de chuid an Choinbhinsiúin ar Chnuas-Mhuinisin pearsanra freisin; nó
- (b) le linn oibríochtaí a phleanáil nó a sheoladh in éineacht le stát nach stát de chuid an Choinbhinsiúin ar Chnuas-Mhuinisin agus é nó í ag comhlíonadh dualgas mar ionadaí míleata nó ag líonadh ceapacháin nó postaithe lasmuigh den Stát, lena n-áirítear iasachtaí chuig aon eagraíocht idirnáisiúnta, de réir alt 3(1)(a) den Acht Cosanta (Leasú) 2006.

(5) Ní fhorléireofar aon ní i *bhfo-alt* (4) mar ní a cheadaíonn do duine, i gcúrsa na ngníomhaíochtaí dá dtagraítear i *mír* (a) nó (b) den fho-alt sin, a iarraidh go sainráite go n-úsáidfear cnuasmhuinisin i gcásanna a bhfuil rogha na muinisean a úsáidfear faoina rialú go heisiach.

CUID 3

MIANAIGH FHRITHPHEARSANRA

Orduithe.

8.—Chun críocha an Achta seo, féadfaidh an tAire le hordú aon stát a shonrófar san ordú a ainmniú mar stát de chuid an Choinbhinsiúin um Mianaigh Fhrithphearsanra a Chosc, agus beidh ordú den sórt sin ina fhianaise gur stát de chuid an Choinbhinsiúin um Mianaigh Fhrithphearsanra a Chosc an stát sin.

Cionta.

9.—(1) Faoi réir *alt 10*, aon duine a dhéanfaidh mianach frithphearsanra—

- (a) a úsáid,
- (b) a fhorbairt nó a tháirgeadh,
- (c) a fháil,
- (d) a shealbhú nó a choinneáil, nó
- (e) a aistriú chuig aon duine,

beidh sé nó sí ciontach i gcion.

(2) Faoi réir *alt 10*, aon duine a chuideoidh le duine, nó a spreagfaidh nó a aslóidh duine, chun cion faoi *fho-alt* (1) a dhéanamh, beidh sé nó sí ciontach i gcion.

(3) Tá feidhm ag *fo-alt* (1) agus (2) maidir le gníomh a dhéantar lasmuigh den Stát más rud é, maidir leis an ngníomh—

- (a) gur ar bord loinge a dhéantar é,
- (b) gur in aerárthach atá cláraithe sa Stát a dhéantar é, nó
- (c) gur comhalta d'Óglaigh na hÉireann a dhéanann é.

10.—(1) Níl feidhm ag *alt 9* maidir leis na nithe seo a leanas— Iompar ceadaithe.

(a) mianach frithphearsanra a fháil, a shealbhú, a úsáid, a choinneáil, a ionláithriú nó a aistriú ag comhalta d'Óglaigh na hÉireann de réir údarú faoi *fho-alt (2)* atá i bhfeidhm, nó

(b) mianach frithphearsanra a shealbhú, a choinneáil nó a aistriú—

(i) ag comhalta d'Óglaigh na hÉireann i gcúrsa a dhualgas nó a dualgas—

(I) chun an dochar a bhaint as an mianach frithphearsanra sin, nó

(II) chun an mianach frithphearsanra sin a scriosadh sa todhchaí,

(ii) ag comhalta den Gharda Síochána—

(I) le linn dó nó di aon chumhacht a thugtar don chomhalta sin le dlí chun mianach frithphearsanra a urghabháil agus a choinneáil i dtaca le haon imeachtaí coiriúla, nó

(II) d'fhonn an mianach frithphearsanra sin a sheachadadh ar Óglaigh na hÉireann lena scriosadh, nó

(iii) ag aon duine eile arna cheapadh nó arna ceapadh ag an Aire le barántas i scríbhinn, i gcúrsa dhualgais an duine sin d'fhonn an mianach frithphearsanra sin a sheachadadh ar Óglaigh na hÉireann lena scriosadh.

(2) Féadfaidh an tAire Cosanta, i gcomhairle leis an Aire, trí fhógra i scríbhinn, a údarú do Cheann Foirne Óglaigh na hÉireann—

(a) faoi féir *fho-alt (3)*, líon sonraithe mianach frithphearsanra a fháil, a choinneáil nó a aistriú chun go ndéanfaidh Óglaigh na hÉireann teicnícíochtaí a fhorbairt maidir le mianaigh a aimsiú, a imréiteach nó a scriosadh, nó oiliúint sa chéanna, nó

(b) a cheadú d'Óglaigh na hÉireann líon sonraithe mianach frithphearsanra a aistriú chuig údarás iomchuí stáit de chuid an Choinbhinsiúin um Mianaigh Fhrithphearsanra a Chosc chun iad a scriosadh.

(3) Ní rachaidh an líon mianach frithphearsanra a shonrófar i bhfógra faoi *mhír (a) d'fho-alt (2)* thar an líon íosta is fíorriachtanach chun na geríoch a luaitear sa mhír sin.

CUID 4

AIRGEAD POIBLÍ A INFHEISTIÚ

11.—Sa Chuid seo—

Mínithe (*Cuid 4*).

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

ciallaíonn “comhpháirteanna” comhpháirteanna a dearadh go sonrach lena n-úsáid i muinisin thoirmisce;

ciallaíonn “infheisteoir” duine nó comhlacht atá freagrach as airgead poiblí, is le hAire den Rialtas, a infheistiú;

ciallaíonn “cuideachta mhuinisean” cuideachta atá ag gabháil do mhuinisin thoirmisce nó do chomhpháirteanna toirmisce a mhonarú;

ciallaíonn “muinisean toirmisce” cnuasmhuinisean, buaimín pléascach nó mianach frithphearsanra;

ciallaíonn “airgead poiblí” airgead arna sholáthar ag an Oireachtas as an Lár-Chiste, nó as a thoradh fáis.

Dualgas
infheisteoirí
infheistíocht i
gcuideachta
mhuinisean a
sheachaint.

12.—(1) Maidir le haon ní in aon achtachán lena n-údaraitear airgead poiblí a infheistiú, ní mheasfar aon infheistíocht, díreach nó neamhdhíreach, i gcuideachta mhuinisean a bheith á húdarú leis.

(2) D’ainneoin aon achtacháin eile, féachfaidh infheisteoir, i gcomhlíonadh aon fheidhme a thugtar dó le haon achtachán nó faoi aon achtachán, le hinfeistíocht airgid poiblí i gcuideachta mhuinisean a sheachaint.

(3) Le linn dul i mbun an chuspóra a leagtar amach i *bhfo-alt* (2), beidh aird ag infheisteoir ar na hábhair a leagtar amach sa Chuid seo.

Infheistíocht
dhíreach i
gcuideachta
mhuinisean.

13.—(1) Féachfaidh infheisteoir le hinfeistíocht dhíreach airgid poiblí in urrúis chothromais nó i bhfiachurrúis arna n-eisiúint ag cuideachta mhuinisean a sheachaint.

(2) I gcás go ndéantar airgead poiblí a infheistiú go díreach i gcuideachta, is cuideachta mhuinisean nó a thagann chun bheith ina cuideachta mhuinisean—

(a) deimhneoidh an t-infheisteoir dó féin go bhfuil beartaithe ag an gcuideachta scor dá rannpháirtíocht i monarú muinisean nó comhpháirteanna toirmisce, nó

(b) scarfaidh an t-infheisteoir lena infheistíocht sa chuideachta sin ar mhodh ordúil.

Infheistíocht
neamhdhíreach i
gcuideachta
mhuinisean.

14.—(1) Déanfaidh infheisteoir infheistíocht airgid poiblí i ngnóthais chomhinfeistíochta nó i dtáirgí infheistíochta a sheachaint mura rud é, tar éis dó gach dícheall a dhéanamh, gur deimhin leis an infheisteoir nach bhfuil dóchúlacht shuntasach ann go ndéanfar an t-airgead poiblí a infheistiú i gcuideachta mhuinisean.

(2) I gcás go ndéantar airgead poiblí a infheistiú i ngnóthas comhinfeistíochta nó i dtáirge infheistíochta a dhéanann an t-airgead sin a infheistiú i gcuideachta, is cuideachta mhuinisean nó a thagann chun bheith ina cuideachta mhuinisean—

(a) deimhneoidh an t-infheisteoir dó féin—

(i) go bhfuil beartaithe ag an gcuideachta scor dá rannpháirtíocht i monarú muinisean nó comhpháirteanna toirmisce, nó

(ii) go bhfuil beartaithe ag an ngnóthas comhinfheistíochta nó ag an táirge infheistíochta scaradh lena infheistíocht sa chuideachta,

agus nach bhfuil dóchúlacht shuntasach ann go ndéanfaidh an gnóthas comhinfheistíochta nó an táirge infheistíochta airgead poiblí a infheistiú i gcuideachta mhuinisean athuair,

nó

(b) a mhéid is féidir, agus aon oibleagáid chonarthach atá glactha air féin aige á cur i gcuntas, scarfaidh an t-infheisteoir lena infheistíocht sa ghnóthas comhinfheistíochta nó sa táirge infheistíochta sin ar mhodh ordúil.

15.—Ní chuirfidh aon ní sa Chuid seo cosc ar infheisteoir conradh a dhéanamh i leith ionstraimí díorthacha airgeadais bunaithe ar innéacs airgeadais. Díorthaigh bunaithe ar innéacs airgeadais.

CUID 5

PIONÓIS AGUS FORÁLACHA ILGHNÉITHEACHA

16.—(1) Féadfaidh an tAire, trí fhógra i scríbhinn, a cheangal ar aon duine a bhfuil cúis aige nó aici chun a chreidiúint go bhfuil faisnéis nó doiciméid ag an duine sin atá ábhartha— Faisnéis a sholáthar.

(a) maidir le forfheidhmiú *Chuid 2* nó *3* den Acht seo, nó

(b) maidir leis an Stát do chomhlíonadh oibleagáide faoi Airteagal 7 nó 8 den Choinbhinsiún Cnuas-Mhuinisean nó Airteagal 7 nó 8 den Choinbhinsiún um Mianaigh Fhrithphearsanra a Chosc,

an fhaisnéis nó na doiciméid a sholáthar don Aire laistigh de cibé tréimhse a shonrófar san fhógra.

(2) (a) Déanfar fógra faoi *fo-alt (1)* a dhíriú chuig an duine lena mbaineann faoina ainm nó faoina hainm, agus féadfar é a sheirbheáil ar an duine nó a thabhairt dó nó di ar cheann amháin de na slite seo a leanas:

(i) trína sheachadadh ar an duine;

(ii) trína fhágáil ag an seoladh ag a bhfuil gnáthchónaí ar an duine nó, i gcás go mbeidh seoladh le haghaidh seirbheála tugtha, ag an seoladh sin; nó

(iii) trína chur leis an bpost i litir chláraithe réamhíochta chuig an seoladh ag a bhfuil gnáthchónaí ar an duine nó, i gcás go mbeidh seoladh le haghaidh seirbheála tugtha, chuig an seoladh sin.

[Uimh. 20.] *An tAcht um Chnuas-Mhuinisin agus [2008.]
Mianaigh Fhrithphearsanra 2008.*

- (b) Chun críocha an fho-ailt seo, measfar gnáthchónaí a bheith ar chuideachta de réir bhrí Achtanna na gCuideachtaí ag a hoifig chláraithe, agus measfar gnáthchónaí a bheith ar gach comhlacht corpraithe eile agus ar gach comhlacht neamhchorpraithe ag a phríomhoifig nó ag a áit ghnó.

(3) Aon duine—

- (a) a mhainníonn déanamh de réir ceanglais faoi *fo-alt (1)*, nó
- (b) mar fhreagra ar an gceanglas sin, a sholáthraíonn go feasach nó go meargánta faisnéis nó doiciméid atá bréagach nó míthreorach i bponc ábhartha don Aire,

beidh sé nó sí ciontach i gcion agus dlífear—

- (i) ar é nó í a chiontú go hachomair, fíneáil nach mó ná €5,000 nó príosúnacht ar feadh téarma nach faide ná 6 mhí, nó iad araon, a chur air nó uirthi, nó
- (ii) ar é nó í a chiontú ar díotáil, fíneáil nach mó ná €50,000 nó príosúnacht ar feadh téarma nach faide ná 2 bhliain, nó iad araon, a chur air nó uirthi.

Pionóis.

17.—Aon duine atá ciontach i gcion faoi *alt 6* nó *9* den Acht seo dlífear—

- (a) ar é nó í a chiontú go hachomair, fíneáil nach mó €5,000 nó príosúnacht ar feadh téarma nach faide ná 12 mhí, nó iad araon, a chur air nó uirthi, nó
- (b) ar é nó í a chiontú ar díotáil, fíneáil nach mó ná €1,000,000 nó príosúnacht ar feadh téarma nach faide ná 10 mbliana, nó iad araon, a chur air nó uirthi.

Dliteanas i leith cionta arna ndéanamh ag comhlacht corpraithe.

18.—(1) I gcás go ndéanann comhlacht corpraithe cion faoin Acht seo agus go gcruthaítear go ndearnadh é le toiliú nó le cúltheadú, nó gurbh inchurtha é i leith aon fhaillí ar thaobh, aon duine ba stiúrthóir, bainisteoir, rúnaí nó oifigeach eile den tsamhail sin de chuid an chomhlachta corpraithe é nó í nuair a rinneadh an cion, nó duine a d'airbheartaigh a bheith ag gníomhú in aon cháil den sórt sin, beidh an duine sin, chomh maith leis an gcomhlacht corpraithe, ciontach i gcion agus dlífear imeachtaí a thionscnamh ina choinne nó ina coinne agus é nó í a phionósú amháil is dá mbeadh sé nó sí ciontach sa chion a rinne an comhlacht corpraithe.

(2) I gcás gurb iad comhaltaí comhlachta corpraithe a bhainistíonn gnóthaí comhlachta corpraithe, tá éifeacht le *fo-alt (1)* amháil is dá bhfolódh “stiúrthóir” comhalta den chomhlacht corpraithe.

Forghéilleadh.

19.—(1) I gcás go gciontaítear duine i gcion faoi *alt 6* nó *9*, aon ní a úsáideadh chun an cion a dhéanamh, nó i dtaca leis an gcion a dhéanamh, forghéillfear don Stát é agus, más cnuasmhuinisean, buaimín pléascach nó mianach frithphearsanra an ní, déanfar é a sheachadadh ar Óglaigh na hÉireann lena scriosadh.

(2) I gcás go bhfuil cnuasmhuinisean, buaimín pléascach nó mianach frithphearsanra le seachadadh ar Óglaigh na hÉireann lena scriosadh faoi *fho-alt (1)*, déanfaidh an chúirt, mura deimhin léi go bhfuil cúiseanna speisialta substaintiúla ann gan déanamh amhlaidh, a ordú don duine ciontaithe na costais agus na caiteachais a íoc, arna dtomhas ag an gcúirt, a thabhoídh Óglaigh na hÉireann i ndáil leis an scriosadh sin a shocrú.

(3) Maidir le hordú i leith costas agus caiteachas faoi *fho-alt (2)*, is ordú é i dteannta aon fhíneála nó pionóis a d'fhéadfadh an chúirt a fhorchur faoi *alt 17* agus ní ina hionad nó ina ionad.

SCEIDEAL 1

AN COINBHINSIÚN AR CHNUAS-MHUINISIN

The States Parties to this Convention,

Deeply concerned that civilian populations and individual civilians continue to bear the brunt of armed conflict,

Determined to put an end for all time to the suffering and casualties caused by cluster munitions at the time of their use, when they fail to function as intended or when they are abandoned,

Concerned that cluster munition remnants kill or maim civilians, including women and children, obstruct economic and social development, including through the loss of livelihood, impede post-conflict rehabilitation and reconstruction, delay or prevent the return of refugees and internally displaced persons, can negatively impact on national and international peace-building and humanitarian assistance efforts, and have other severe consequences that can persist for many years after use,

Deeply concerned also at the dangers presented by the large national stockpiles of cluster munitions retained for operational use and *determined* to ensure their rapid destruction,

Believing it necessary to contribute effectively in an efficient, coordinated manner to resolving the challenge of removing cluster munition remnants located throughout the world, and to ensure their destruction,

Determined also to ensure the full realisation of the rights of all cluster munition victims and *recognising* their inherent dignity,

Resolved to do their utmost in providing assistance to cluster munition victims, including medical care, rehabilitation and psychological support, as well as providing for their social and economic inclusion,

Recognising the need to provide age- and gender-sensitive assistance to cluster munition victims and to address the special needs of vulnerable groups,

Bearing in mind the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

Mindful of the need to coordinate adequately efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and *resolved* to avoid discrimination among victims of various types of weapons,

Reaffirming that in cases not covered by this Convention or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law, derived from established custom, from the principles of humanity and from the dictates of public conscience,

Resolved also that armed groups distinct from the armed forces of a State shall not, under any circumstances, be permitted to engage in any activity prohibited to a State Party to this Convention,

Welcoming the very broad international support for the international norm prohibiting anti-personnel mines, enshrined in the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

Welcoming also the adoption of the Protocol on Explosive Remnants of War, 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 its entry into force on 12 November 2006, and *wishing* to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

Bearing in mind also United Nations Security Council Resolution 1325 on women, peace and security and United Nations Security Council Resolution 1612 on children in armed conflict,

Welcoming further the steps taken nationally, regionally and globally in recent years aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of cluster munitions,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the global call for an end to civilian suffering caused by cluster munitions and *recognising* the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other non-governmental organisations around the world,

Reaffirming the Declaration of the Oslo Conference on Cluster Munitions, by which, *inter alia*, States recognised the grave consequences caused by the use of cluster munitions and committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and would establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation for victims, clearance of contaminated areas, risk reduction education and destruction of stockpiles,

Emphasising the desirability of attracting the adherence of all States to this Convention, and *determined* to work strenuously towards the promotion of its universalisation and its full implementation,

Basing themselves on the principles and rules of international humanitarian law, in particular the principle that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, and the rules that the parties to a conflict shall at all times

distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations against military objectives only, that in the conduct of military operations constant care shall be taken to spare the civilian population, civilians and civilian objects and that the civilian population and individual civilians enjoy general protection against dangers arising from military operations,

HAVE AGREED as follows:

Article 1

General obligations and scope of application

1. Each State Party undertakes never under any circumstances to:

- (a) Use cluster munitions;
- (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
- (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.

2. Paragraph 1 of this Article applies, *mutatis mutandis*, to explosive bomblets that are specifically designed to be dispersed or released from dispensers affixed to aircraft.

3. This Convention does not apply to mines.

Article 2

Definitions

For the purposes of this Convention:

1. **“Cluster munition victims”** means all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities;

2. **“Cluster munition”** means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:

- (a) A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
- (b) A munition or submunition designed to produce electrical or electronic effects;
- (c) A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:
 - (i) Each munition contains fewer than ten explosive submunitions;

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

- (ii) Each explosive submunition weighs more than four kilograms;
- (iii) Each explosive submunition is designed to detect and engage a single target object;
- (iv) Each explosive submunition is equipped with an electronic self-destruction mechanism;
- (v) Each explosive submunition is equipped with an electronic self-deactivating feature;

3. “**Explosive submunition**” means a conventional munition that in order to perform its task is dispersed or released by a cluster munition and is designed to function by detonating an explosive charge prior to, on or after impact;

4. “**Failed cluster munition**” means a cluster munition that has been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released its explosive submunitions but failed to do so;

5. “**Unexploded submunition**” means an explosive submunition that has been dispersed or released by, or otherwise separated from, a cluster munition and has failed to explode as intended;

6. “**Abandoned cluster munitions**” means cluster munitions or explosive submunitions that have not been used and that have been left behind or dumped, and that are no longer under the control of the party that left them behind or dumped them. They may or may not have been prepared for use;

7. “**Cluster munition remnants**” means failed cluster munitions, abandoned cluster munitions, unexploded submunitions and unexploded bomblets;

8. “**Transfer**” involves, in addition to the physical movement of cluster munitions into or from national territory, the transfer of title to and control over cluster munitions, but does not involve the transfer of territory containing cluster munition remnants;

9. “**Self-destruction mechanism**” means an incorporated automatically-functioning mechanism which is in addition to the primary initiating mechanism of the munition and which secures the destruction of the munition into which it is incorporated;

10. “**Self-deactivating**” means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example a battery, that is essential to the operation of the munition;

11. “**Cluster munition contaminated area**” means an area known or suspected to contain cluster munition remnants;

12. “**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;

13. “**Explosive bomblet**” means a conventional munition, weighing less than 20 kilograms, which is not self-propelled and which, in order to perform its task, is dispersed or released by a

dispenser, and is designed to function by detonating an explosive charge prior to, on or after impact;

14. “**Dispenser**” means a container that is designed to disperse or release explosive bomblets and which is affixed to an aircraft at the time of dispersal or release;

15. “**Unexploded bomblet**” means an explosive bomblet that has been dispersed, released or otherwise separated from a dispenser and has failed to explode as intended.

Article 3

Storage and stockpile destruction

1. Each State Party shall, in accordance with national regulations, separate all cluster munitions under its jurisdiction and control from munitions retained for operational use and mark them for the purpose of destruction.

2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article as soon as possible but not later than eight years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.

3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article within eight years of entry into force of this Convention for that State Party it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions by a period of up to four years. A State Party may, in exceptional circumstances, request additional extensions of up to four years. The requested extensions shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 2 of this Article.

4. Each request for an extension shall set out:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article and, where applicable, the exceptional circumstances justifying it;
- (c) A plan for how and when stockpile destruction will be completed;
- (d) The quantity and type of cluster munitions and explosive submunitions held at the entry into force of this Convention for that State Party and any additional cluster munitions or explosive submunitions discovered after such entry into force;

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

- (e) The quantity and type of cluster munitions and explosive submunitions destroyed during the period referred to in paragraph 2 of this Article; and
- (f) The quantity and type of cluster munitions and explosive submunitions remaining to be destroyed during the proposed extension and the annual destruction rate expected to be achieved.

5. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate. A request for an extension shall be submitted a minimum of nine months prior to the Meeting of States Parties or the Review Conference at which it is to be considered.

6. Notwithstanding the provisions of Article 1 of this Convention, the retention or acquisition of a limited number of cluster munitions and explosive submunitions for the development of and training in cluster munition and explosive submunition detection, clearance or destruction techniques, or for the development of cluster munition counter-measures, is permitted. The amount of explosive submunitions retained or acquired shall not exceed the minimum number absolutely necessary for these purposes.

7. Notwithstanding the provisions of Article 1 of this Convention, the transfer of cluster munitions to another State Party for the purpose of destruction, as well as for the purposes described in paragraph 6 of this Article, is permitted.

8. States Parties retaining, acquiring or transferring cluster munitions or explosive submunitions for the purposes described in paragraphs 6 and 7 of this Article shall submit a detailed report on the planned and actual use of these cluster munitions and explosive submunitions and their type, quantity and lot numbers. If cluster munitions or explosive submunitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party retained, acquired or transferred cluster munitions or explosive submunitions and shall be submitted to the Secretary-General of the United Nations no later than 30 April of the following year.

Article 4

Clearance and destruction of cluster munition remnants and risk reduction education

1. Each State Party undertakes to clear and destroy, or ensure the clearance and destruction of, cluster munition remnants located in cluster munition contaminated areas under its jurisdiction or control, as follows:

- (a) Where cluster munition remnants are located in areas under its jurisdiction or control at the date of entry into force of this Convention for that State Party, such clearance and destruction shall be completed as soon as possible but not later than ten years from that date;

- (b) Where, after entry into force of this Convention for that State Party, cluster munitions have become cluster munition remnants located in areas under its jurisdiction or control, such clearance and destruction must be completed as soon as possible but not later than ten years after the end of the active hostilities during which such cluster munitions became cluster munition remnants; and
- (c) Upon fulfilling either of its obligations set out in subparagraphs (a) and (b) of this paragraph, that State Party shall make a declaration of compliance to the next Meeting of States Parties.

2. In fulfilling its obligations under paragraph 1 of this Article, each State Party shall take the following measures as soon as possible, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

- (a) Survey, assess and record the threat posed by cluster munition remnants, making every effort to identify all cluster munition contaminated areas under its jurisdiction or control;
- (b) Assess and prioritise needs in terms of marking, protection of civilians, clearance and destruction, and take steps to mobilise resources and develop a national plan to carry out these activities, building, where appropriate, upon existing structures, experiences and methodologies;
- (c) Take all feasible steps to ensure that all cluster munition contaminated areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. Warning signs based on methods of marking readily recognisable by the affected community should be utilised in the marking of suspected hazardous areas. Signs and other hazardous area boundary markers should, as far as possible, be visible, legible, durable and resistant to environmental effects and should clearly identify which side of the marked boundary is considered to be within the cluster munition contaminated areas and which side is considered to be safe;
- (d) Clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and
- (e) Conduct risk reduction education to ensure awareness among civilians living in or around cluster munition contaminated areas of the risks posed by such remnants.

3. In conducting the activities referred to in paragraph 2 of this Article, each State Party shall take into account international standards, including the International Mine Action Standards (IMAS).

4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for that State Party and have become cluster munition remnants that are located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter.

- (a) In such cases, upon entry into force of this Convention for both States Parties, the former State Party is strongly encouraged to provide, *inter alia*, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the United Nations system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants.
- (b) Such assistance shall include, where available, information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.

5. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within ten years of the entry into force of this Convention for that State Party, it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants by a period of up to five years. The requested extension shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 1 of this Article.

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall be submitted a minimum of nine months prior to the Meeting of States Parties or Review Conference at which it is to be considered. Each request shall set out:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the reasons for the proposed extension, including the financial and technical means available to and required by the State Party for the clearance and destruction of all cluster munition remnants during the proposed extension;
- (c) The preparation of future work and the status of work already conducted under national clearance and demining programmes during the initial ten year period referred to in paragraph 1 of this Article and any subsequent extensions;
- (d) The total area containing cluster munition remnants at the time of entry into force of this Convention for that State Party and any additional areas containing cluster munition remnants discovered after such entry into force;
- (e) The total area containing cluster munition remnants cleared since entry into force of this Convention;
- (f) The total area containing cluster munition remnants remaining to be cleared during the proposed extension;
- (g) The circumstances that have impeded the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control during

the initial ten year period referred to in paragraph 1 of this Article, and those that may impede this ability during the proposed extension;

- (h) The humanitarian, social, economic and environmental implications of the proposed extension; and
- (i) Any other information relevant to the request for the proposed extension.

7. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 6 of this Article, including, *inter alia*, the quantities of cluster munition remnants reported, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate.

8. Such an extension may be renewed by a period of up to five years upon the submission of a new request, in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension a State Party shall submit relevant additional information on what has been undertaken during the previous extension granted pursuant to this Article.

Article 5

Victim assistance

1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.

2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall:

- (a) Assess the needs of cluster munition victims;
- (b) Develop, implement and enforce any necessary national laws and policies;
- (c) Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;
- (d) Take steps to mobilise national and international resources;
- (e) Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

medical, rehabilitative, psychological or socio-economic needs;

- (f) Closely consult with and actively involve cluster munition victims and their representative organisations;
- (g) Designate a focal point within the government for coordination of matters relating to the implementation of this Article; and
- (h) Strive to incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation and psychological support, as well as social and economic inclusion.

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.

2. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by cluster munitions, aimed at the implementation of the obligations of this Convention. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, non-governmental organisations or institutions, or on a bilateral basis.

3. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision and receipt of clearance and other such equipment and related technological information for humanitarian purposes.

4. In addition to any obligations it may have pursuant to paragraph 4 of Article 4 of this Convention, each State Party in a position to do so shall provide assistance for clearance and destruction of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance and destruction of cluster munition remnants and related activities.

5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled cluster munitions, and shall also provide assistance to identify, assess and prioritise needs and practical measures in terms of marking, risk reduction education, protection of civilians and clearance and destruction as provided in Article 4 of this Convention.

6. Where, after entry into force of this Convention, cluster munitions have become cluster munition remnants located in areas under the jurisdiction or control of a State Party, each State Party in a position to do so shall urgently provide emergency assistance to the affected State Party.

7. Each State Party in a position to do so shall provide assistance for the implementation of the obligations referred to in Article 5

of this Convention to adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent Societies and their International Federation, non-governmental organisations or on a bilateral basis.

8. Each State Party in a position to do so shall provide assistance to contribute to the economic and social recovery needed as a result of cluster munition use in affected States Parties.

9. Each State Party in a position to do so may contribute to relevant trust funds in order to facilitate the provision of assistance under this Article.

10. Each State Party that seeks and receives assistance shall take all appropriate measures in order to facilitate the timely and effective implementation of this Convention, including facilitation of the entry and exit of personnel, materiel and equipment, in a manner consistent with national laws and regulations, taking into consideration international best practices.

11. Each State Party may, with the purpose of developing a national action plan, request the United Nations system, regional organisations, other States Parties or other competent intergovernmental or non-governmental institutions to assist its authorities to determine, *inter alia*:

- (a) The nature and extent of cluster munition remnants located in areas under its jurisdiction or control;
- (b) The financial, technological and human resources required for the implementation of the plan;
- (c) The time estimated as necessary to clear and destroy all cluster munition remnants located in areas under its jurisdiction or control;
- (d) Risk reduction education programmes and awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;
- (e) Assistance to cluster munition victims; and
- (f) The coordination relationship between the government of the State Party concerned and the relevant governmental, intergovernmental or non-governmental entities that will work in the implementation of the plan.

12. States Parties 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 programmes.

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 of this Convention;
- (b) The total of all cluster munitions, including explosive submunitions, referred to in paragraph 1 of Article 3 of this Convention, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;
- (c) The technical characteristics of each type of cluster munition produced by that State Party prior to entry into force of this Convention for it, to the extent known, and those currently owned or possessed by it, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information that may facilitate the clearance of cluster munition remnants;
- (d) The status and progress of programmes for the conversion or decommissioning of production facilities for cluster munitions;
- (e) The status and progress of programmes for the destruction, in accordance with Article 3 of this Convention, of cluster munitions, including explosive submunitions, with details of the methods that will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
- (f) The types and quantities of cluster munitions, including explosive submunitions, destroyed in accordance with Article 3 of this Convention, including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;
- (g) Stockpiles of cluster munitions, including explosive submunitions, discovered after reported completion of the programme referred to in sub-paragraph (e) of this paragraph, and plans for their destruction in accordance with Article 3 of this Convention;
- (h) To the extent possible, the size and location of all cluster munition contaminated areas under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munition remnant in each such area and when they were used;
- (i) The status and progress of programmes for the clearance and destruction of all types and quantities of cluster munition remnants cleared and destroyed in accordance with Article 4 of this Convention, to include the size and location of the cluster munition contaminated area cleared and a breakdown of the quantity of each type of cluster munition remnant cleared and destroyed;

- (j) The measures taken to provide risk reduction education and, in particular, an immediate and effective warning to civilians living in cluster munition contaminated areas under its jurisdiction or control;
 - (k) The status and progress of implementation of its obligations under Article 5 of this Convention to adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims and to collect reliable relevant data with respect to cluster munition victims;
 - (l) The name and contact details of the institutions mandated to provide information and to carry out the measures described in this paragraph;
 - (m) The amount of national resources, including financial, material or in kind, allocated to the implementation of Articles 3, 4 and 5 of this Convention; and
 - (n) The amounts, types and destinations of international cooperation and assistance provided under Article 6 of this Convention.
2. The information provided in accordance with paragraph 1 of this Article shall be updated by the States Parties annually, covering the previous 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 a matter of 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 that would assist in clarifying the 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 States Parties. The Secretary-General of the United Nations shall transmit the

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

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 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. Where a matter has been submitted to it pursuant to paragraph 3 of this Article, the Meeting of States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties concerned. If it does so determine, the Meeting of States Parties may suggest to the States Parties concerned ways and means further to 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 States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6 of this Convention.

6. In addition to the procedures provided for in paragraphs 2 to 5 of this Article, the Meeting of States Parties may decide to adopt such other general procedures or specific mechanisms for clarification of compliance, including facts, and resolution of instances of non-compliance with the provisions of this Convention as it deems appropriate.

Article 9

National implementation measures

Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, 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. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of States Parties and referral to the International Court of Justice in conformity with the Statute of the Court.

2. The Meeting of 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 concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

Article 11

Meetings of States Parties

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of 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 of this Convention;
- (d) The development of technologies to clear cluster munition remnants;
- (e) Submissions of States Parties under Articles 8 and 10 of this Convention; and
- (f) Submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

2. The first Meeting of States Parties shall be convened by the Secretary-General of the United Nations within one year of 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. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations 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 States Parties referred to in paragraph 2 of Article 11 of this Convention; and
- (c) To take decisions on submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

3. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations 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 its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Secretary-General of the United Nations, 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 Secretary-General of the United Nations no later than 90 days after its circulation that they support further consideration of the proposal, the Secretary-General of the United Nations shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations 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 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 all States.

5. An amendment to this Convention shall enter into force for States Parties that have accepted the amendment on the date of deposit of acceptances by a majority of the States which were Parties at the date of adoption of the amendment. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article 14

Costs and administrative tasks

1. The costs of the Meetings of States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not party 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 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

3. The performance by the Secretary-General of the United Nations of administrative tasks assigned to him or her under this Convention is subject to an appropriate United Nations mandate.

Article 15

Signature

This Convention, done at Dublin on 30 May 2008, shall be open for signature at Oslo by all States on 3 December 2008 and thereafter at United Nations Headquarters in New York until its entry into force.

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval by the Signatories.

2. It shall be open for accession by any State that 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 thirtieth instrument of ratification, acceptance, approval or accession has been deposited.

2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the thirtieth 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 Article 1 of this Convention pending its entry into force for that State.

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

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

withdrawal shall include a full explanation of the reasons motivating 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.

Article 21

Relations with States not party to this Convention

1. Each State Party shall encourage States not party to this Convention to ratify, accept, approve or accede to this Convention, with the goal of attracting the adherence of all States to this Convention.

2. Each State Party shall notify the governments of all States not party to this Convention, referred to in paragraph 3 of this Article, of its obligations under this Convention, shall promote the norms it establishes and shall make its best efforts to discourage States not party to this Convention from using cluster munitions.

3. Notwithstanding the provisions of Article 1 of this Convention and in accordance with international law, States Parties, their military personnel or nationals, may engage in military cooperation and operations with States not party to this Convention that might engage in activities prohibited to a State Party.

4. Nothing in paragraph 3 of this Article shall authorise a State Party:

- (a) To develop, produce or otherwise acquire cluster munitions;
- (b) To itself stockpile or transfer cluster munitions;
- (c) To itself use cluster munitions; or
- (d) To expressly request the use of cluster munitions in cases where the choice of munitions used is within its exclusive control.

Article 22

Depositary

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

Article 23

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention shall be equally authentic.

[2008.] *An tAcht um Chnuas-Mhuinisin agus [Uimh. 20.]
Mianaigh Fhrithphearsanra 2008.*

SCEIDEAL 2

AN COINBHINSIÚN MAIDIR LE TOIRMEASC AR ÚSAID, STOC-CHARNADH,
TÁIRGEADH AGUS AISTRÍÚ MIANACH FRITHPHEARSANRA AGUS MAIDIR
LENA nDÍOTHÚ

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;

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

- (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, inter-governmental 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

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

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 9 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.

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

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

[*Uimh. 20.*] *An tAcht um Chnuas-Mhuinisin agus* [2008.]
Mianaigh Fhrithphearsanra 2008.

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.