



AN BILLE UM CHNUAS-MHUINISIN 2008
CLUSTER MUNITIONS BILL 2008

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Short Title and Commencement.
 2. Interpretation.
 3. Prohibition on Sale, Design and Supply.
 4. Defence.
 5. Penalties.
 6. Confiscation.
 7. Reporting Requirements.
 8. Register of Prohibited Investment in Cluster Munitions.
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CLUSTER MUNITIONS BILL 2008

BILL

entitled

5 AN ACT TO PROHIBIT THE TRADE IN CLUSTER
MUNITIONS AND TO PROVIDE FOR CONNECTED
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—This Act may be cited as the Cluster Munitions Act 2008.

Short Title and
Commencement.

10 2.—In this Act—

Interpretation.

“cluster munitions” means containers comprising explosive sub-
munitions which are intended to disperse these sub-munitions over
an area in order to detonate them before, on or after impact, but
shall not mean flare and smoke ammunitions or pyrotechnical
15 chemicals;

“Minister” means the Minister for Foreign Affairs;

“Register of Prohibited Investment in Cluster Munitions” shall mean
the Register created in *section 8(1)* of this Act;

20 “trade in cluster munitions” means development, design, production,
purchase, sale, supply, procurement, import, export, transit, use,
storage or possession of cluster munitions.

3.—(1) (a) It shall be an offence for any person to trade in cluster
munitions.

Prohibition on Sale,
Design and Supply.

25 (b) It shall be an offence for any person to invest in or finance
trade in cluster munitions or to invest in or finance a per-
son involved in trade in cluster munitions.

(c) It shall be an offence for any person to invest in or finance
any person named on the Register of Prohibited Invest-
ment in Cluster Munitions.

(2) Where an offence under *subsection (1)* is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other officer of the body corporate, the director, manager, secretary or other officer or any person purporting to act in such capacity shall also be guilty of an offence. 5

Defence. 4.—(1) It shall be a defence to a prosecution under *section 3(1)(b)* to prove that reasonable inspection could not have established that the investment or financing was of trade in cluster munitions or a person involved in trade in cluster munitions. 10

(2) The defence under *subsection (1)* is not available if the prospectus or, prior to initial investment, any one of the previous five annual reports, of the person or body invested in or financed disclose trade in cluster munitions.

Penalties. 5.—A person guilty of an offence under this Act shall be liable— 15

(a) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding twelve months or to both, or

(b) on conviction on indictment, to a fine not exceeding €1,000,000 or to imprisonment for a term not exceeding five years or to both. 20

Confiscation. 6.—(1) Any cluster munitions used to commit an act under *section 3(1)* shall be confiscated and destroyed at the expense of the owner.

(2) Any means used to transport items subject to the prohibition in *section 3(1)* may be confiscated by the Minister. 25

Reporting Requirements. 7.—(1) Banks and other lending institutions established in Ireland shall provide a report to the Central Bank no later than 31 December in each year confirming that they have not invested in or financed trade in cluster munitions or any person involved in trade in cluster munitions. 30

(2) Trustees of Pension Funds established in Ireland shall provide a report to the Pensions Board no later than 31 December in each year confirming that they have not invested in or financed trade in cluster munitions or any person involved in trade in cluster munitions. 35

(3) No public funds shall be invested in or used for the purpose of financing trade in cluster munitions or any person involved in trade in cluster munitions.

Register of Prohibited Investment in Cluster Munitions. 8.—(1) The Minister shall by regulations establish and publish a register of persons outside of Ireland which trade in cluster munitions, to be known as the Register of Prohibited Investment in Cluster Munitions. 40

(2) The Minister shall by regulations provide for persons to be placed on and withdrawn from the Register of Prohibited Investment in Cluster Munitions. 45

(3) The Minister shall publish in *Iris Oifigiúil* the names placed on and withdrawn from the Register of Prohibited Investment in Cluster Munitions and shall notify the Office of the Director of Corporate Enforcement and the Financial Regulator of such publication.