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# Convention on Cluster Munitions

7 September 2011

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## Second Meeting of States Parties

Beirut, 12-16 September 2011

Item 10 of the provisional agenda

**General status and operation of the Convention**

### **Model legislation: Cluster Munitions Act 201[ ]**

#### **Submitted by New Zealand**

The present model has been prepared by New Zealand for possible use by small States that do not possess cluster munitions and are not contaminated by them. It meets the obligations applicable to those States under the Convention on Cluster Munitions (2008) to prohibit future possession of cluster munitions and to outlaw trade in them, or their transfer or transit.



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## **Cluster Munitions Act 201[ ]**

### **1. Title**

This Act is the Cluster Munitions Act [INSERT YEAR].

### **2. Commencement**

This Act comes into force on [INSERT DATE/PROCEDURE].

### **3. Purpose**

The purpose of this Act is to implement the Convention on Cluster Munitions (2008) in [INSERT COUNTRY NAME].

### **4. Interpretation**

(1) In this Act:

“Convention” means the 2008 Convention on Cluster Munitions (the English text of the Convention is set out in the Schedule to this Act);

“Minister” means the Minister of State who is responsible for the administration of this Act;

“Officer” means a person authorized by the Minister to give effect to this Act;

“Transfer” involves, in addition to the physical movement of cluster munitions into or from [INSERT COUNTRY NAME], the transfer of title to, and control over, cluster munitions.

(2) Terms and expressions not defined in this Act but defined in the Convention have the same meaning as in the Convention.

### **5. Offences relating to cluster munitions: prohibited conduct**

(1) A person who does any of the following commits an offence:

(a) Uses a cluster munition;

(b) Develops, produces or otherwise acquires a cluster munition;

(c) Possesses, retains or stockpiles a cluster munition;

(d) Transfers a cluster munition, directly or indirectly, to another person;

(e) Assists, encourages or induces another person to engage in any conduct described in paragraphs (1) (a) to (d) of this section.

(2) A person commits an offence who provides or invests funds with the intention that those funds be used, or knowing that they are to be used, in the development or production of cluster munitions.

## **6. Seizure and destruction of cluster munitions**

Any cluster munition connected with the commission of an offence under paragraphs (1) (a) to (d) of section 5 may be seized without warrant and must be destroyed by an officer.

## **7. Exceptions to offences in section 5: permitted conduct**

Despite section 5, an officer does not commit an offence by seizing, receiving or acquiring a cluster munition if he or she is doing so in the course of his or her employment and for the purposes of:

- (a) Destroying it; or
- (b) Retaining it pending its destruction; or
- (c) Transferring it so that it can be destroyed.

## **8. Penalties**

Any person who contravenes section 5 shall be guilty of an offence and liable upon conviction to imprisonment for a term not exceeding [ ] years or to a fine not exceeding [ ] or both.

## **9. Application of Act**

(1) This Act applies to all acts done or omitted in [INSERT COUNTRY NAME].

(2) This Act also applies to all acts done or omitted outside [INSERT COUNTRY NAME] by a citizen of [INSERT COUNTRY NAME] or by a company incorporated in [INSERT COUNTRY NAME].

## **10. Consequential amendments**

*[If required, for example, to customs legislation dealing with prohibited imports and exports.]*

## **11. Act binding on the State**

This Act binds the State.

## Annex

### Schedule: Convention on Cluster Munitions (2008)

[*Attach text*]

*Note:* If a State that opts to use this model has an armed force and/or personnel involved in cluster munition clearance activities in third countries, it may need to include the following:

Add to section 7:

(2) Despite section 5, a person does not commit an offence outside [INSERT COUNTRY NAME] if, in accordance with the Convention:

- (a) He or she destroys a cluster munition or renders it harmless; or
- (b) He or she enables another person to destroy a cluster munition or render it harmless.

(3) A member of the Armed Forces does not commit an offence against section 5 merely by engaging, in the course of his or her duties, in operations, exercises or other military activities with the armed forces of a State that is not a party to the Convention.

Add to the end of section 9 (2):

... or by a member of the Armed Forces of [INSERT COUNTRY NAME].

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