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DECOMMISSIONING ACT, 1997

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Number 3 of 1997

DECOMMISSIONING ACT, 1997

AN ACT TO MAKE PROVISION IN RELATION TO THE DECOMMISSIONING OF FIREARMS, AMMUNITION AND EXPLOSIVES AND FOR THAT PURPOSE TO MAKE PROVISION IN RELATION TO A COMMISSION ESTABLISHED BY AGREEMENT BETWEEN THE GOVERNMENT AND THE GOVERNMENT OF THE UNITED KINGDOM AND TO PROVIDE FOR RELATED MATTERS. [26th February, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, save where the context otherwise requires— Interpretation.

“act” includes omission and a reference to the doing of an act includes a reference to the making of an omission;

“the agreement” means the agreement between the Government and the Government of the United Kingdom establishing the Commission;

“arms” means a firearm within the meaning of the Firearms Acts, 1925 to 1990, and includes ammunition within the meaning of the Firearms Act, 1925, an explosive within the meaning of the Explosives Act, 1875, and any other substance or thing that is an explosive substance within the meaning of the Explosive Substances Act, 1883;

“arrangements” means arrangements made by the Commission pursuant to regulations;

“the Commission” means the commission established by the agreement;

“the corresponding law” means the law of the United Kingdom corresponding to this Act;

“decommissioning”, in relation to arms, means—

(a) destroying the arms, or

(b) transferring to, or doing an act leading to the collection and destruction of the arms by or on behalf of, the Commission or a person designated by the Minister or, if appropriate, the Secretary of State, in or outside the State, and cognate words shall be construed accordingly;

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"destruction" includes making permanently inaccessible or unusable and cognate words shall be construed accordingly;

"enactment" includes an instrument made under a power conferred by statute;

"functions" includes powers and duties;

"the Minister" means the Minister for Justice;

"regulations" means regulations made by the Minister under this Act;

"Secretary of State" means a Secretary of State in the Government of the United Kingdom.

(2) In this Act—

(a) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other provision is intended, and

(b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and

(c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment.

Regulations in
relation to
decommissioning.

2.—(1) Regulations may provide for the decommissioning of arms.

(2) Without prejudice to the generality of *subsection (1)*, regulations may make provision in relation to—

(a) the locations at which, the procedures by which and the times at or during which the decommissioning of arms or any particular method or manner of such decommissioning may take place,

(b) the methods and manners by and in which the decommissioning of arms may take place including—

(i) the transfer of arms to the Commission or to a person designated by the Minister or (if the transfer is to a person outside the State in accordance with the corresponding law) the Secretary of State for destruction,

(ii) the provision of information to the Commission or to a person in the State designated by the Minister or (if the information is provided to a person outside the State in accordance with the corresponding law) a person designated by the Secretary of State leading to the collection and destruction of arms by the Commission or a person designated by the Minister or (in the case of arms outside the State) the Secretary of State,

(iii) the depositing of arms for collection and destruction by the Commission or a person designated by the

Minister or (in the case of arms deposited outside S.2
the State in accordance with the corresponding law)
the Secretary of State,

(iv) the destruction of arms by those in possession of
them,

and

(c) the destruction of arms decommissioned in accordance with
subparagraph (i), (ii) or (iii) of paragraph (b).

3.—(1) The subsequent provisions of this section shall come into
operation on such day as the Minister, after consultation with the
Secretary of State, may, for the purpose of enabling the agreement
to have full effect, by order appoint. Provisions relating
to Commission.

(2) The Commission shall be independent in the performance of
its functions.

(3) The Commission shall have the legal capacity of a body
corporate.

(4) (a) The Minister may by order make provision for the pur-
poses of *paragraph (b)* as respects inviolability, exemp-
tions, facilities and immunities, privileges and rights in
relation to the Commission.

(b) The Commission, its property and a person (being a mem-
ber of the Commission or a member of the staff of, or a
person performing functions assigned to him or her by,
the Commission, an agent of the Commission or a mem-
ber of the person's family who forms part of his or her
household) shall have and enjoy inviolability, exemp-
tions, facilities and immunities, privileges and rights in
such manner, to such extent and subject to such limi-
tations (including the waiver thereof) as may be provided
for in each case in the order under *paragraph (a)*.

(c) An order made under this section may make different pro-
vision for different cases or classes of case.

(5) The Minister may by order amend or revoke an order under
this section (other than *subsection (1)*).

(6) The Commission shall stand dissolved upon such day as the
Minister may, after consultation with the Secretary of State, by order
appoint, and the Minister may include in the order such transitional
or consequential provisions as appear to him or her to be expedient.

(7) An order under this section shall be laid before each House of
the Oireachtas as soon as may be after it is made and, if a resolution
annulling the order is passed by either such House within the next
21 days on which that House has sat after the order has been laid
before it, the order shall be annulled accordingly, but without preju-
dice to the validity of anything previously done thereunder.

4.—(1) Regulations may make provision in relation to the
Commission. Regulations in
relation to
Commission.

(2) Without prejudice to the generality of *subsection (1)*, regulations may provide for—

- (a) the membership of the Commission, including the number of members thereof,
- (b) the terms and conditions upon and subject to which the members of the Commission shall hold office as such members and the terms and conditions of employment of any staff of the Commission,
- (c) the provision to the Commission of such moneys, premises, facilities and services (including the services of staff) as may be necessary for the performance of its functions,
- (d) the maintenance by the Commission, and the inspection by or on behalf of the Minister and the Secretary of State, of accounts of moneys received or expended by the Commission,
- (e) the proof of documents executed on behalf of the Commission,
- (f) the prohibition of the disclosure by a member of the Commission or of the staff of the Commission or by any person providing a service to the Commission of information obtained by such member or person in the course of the performance of his or her functions as such member or person unless such disclosure is authorised by or on behalf of the Commission,
- (g) the functions of the Commission and its role generally in relation to the decommissioning of arms or any particular method or manner of such decommissioning, which functions may include all or any one or more of the following:
 - (i) the making of arrangements for the decommissioning of arms and the joining or assisting by the Commission in the carrying out of any such arrangements,
 - (ii) the taking possession of arms decommissioned pursuant to regulations or arrangements,
 - (iii) the observation and verification and, where appropriate, the supervision of the decommissioning of arms taking place in accordance with regulations or arrangements,
 - (iv) the recording of such information as may be specified for the purpose of monitoring the process of the decommissioning of arms,
 - (v) the making of reports on specified matters to such persons as may be specified,
 - (vi) the facilitating of the safe and secure movement, handling and storage of arms during and after their decommissioning, and the supervision of such movement, handling and storage,

- (h) any other matters that the Minister considers necessary for the purposes of this Act.

5.—(1) Proceedings shall not be instituted against a person for an offence in relation to any particular arms if— Prohibition of certain proceedings.

- (a) at the time of its commission, the person was engaged in the process of the decommissioning of those arms in accordance with regulations or arrangements,
- (b) the requirements of the regulations or arrangements were satisfied as respects the person and the decommissioning,
- (c) the decommissioning was taking or took place at a time or during a period standing specified in the regulations, and
- (d) the act constituting the offence or an act that is an ingredient of the offence was a part of the process of the decommissioning and was done in pursuance of the regulations or arrangements.

(2) Without prejudice to the generality of *subsection (1)*, regulations may specify offences to which it applies.

(3) Regulations may provide that *subsection (1)*, in so far as it relates to any particular method or manner of decommissioning of arms, shall apply only to specified offences.

(4) Where arms have been decommissioned in accordance with regulations or arrangements, *subsection (1)* shall not apply to proceedings for an offence alleged to have been committed, after the decommissioning, by the use of, or in relation to, those arms.

6.—(1) Subject to *subsections (2) and (3)*—

Prohibition of certain testing, etc., and certain evidence.

- (a) arms being made available for the purposes of decommissioning in accordance with regulations or arrangements or taken into the possession of the Commission or a person designated by the Minister for the purposes of or following such decommissioning,
- (b) anything resulting from the process of the decommissioning of arms in accordance with regulations or arrangements,
- (c) any substance or thing found on or in any arms decommissioned in accordance with regulations or arrangements, or
- (d) anything on or in which arms decommissioned in accordance with regulations or arrangements were when so decommissioned or any substance or other thing found on or in such a thing,

shall not be subjected to forensic examination or to testing.

(2) *Subsection (1)* does not apply to a forensic examination or to testing of—

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- (a) any substance or thing decommissioned in accordance with regulations or arrangements,
- (b) any substance or thing referred to in *paragraph (b), (c) or (d) of subsection (1)*,

for the purpose of—

- (i) determining—

- (I) if it is or contains ammunition or an explosive or explosive substance,
- (II) the quantity of ammunition, explosives or explosive substances present, or
- (III) if the condition of the substance or thing is safe and stable,

or

- (ii) discovering information concerning an offence alleged to have been committed after the decommissioning concerned.

(3) Arms decommissioned in accordance with regulations or arrangements or any other substance or thing referred to in *subsection (1)* or information obtained in the course, or as a result, of the decommissioning of arms in accordance with regulations or arrangements shall not be admissible in evidence by or on behalf of the State in proceedings in any court for an offence (other than an offence referred to in *subsection (2)(ii)*) or in any appeal in relation to any such proceedings.

(4) Evidence of anything done for the purposes of the decommissioning of arms in accordance with regulations or arrangements shall not be admissible by or on behalf of the State in proceedings in any court for an offence (other than an offence referred to in *subsection (2)(ii)*) or in any appeal in relation to such proceedings.

- (5) (a) In this section, save where the context otherwise requires—

“ammunition” has the meaning assigned to it by the Firearms Act, 1925;

“explosive” means an explosive within the meaning of the Explosives Act, 1875;

“explosive substance” has the meaning assigned to it by the Explosive Substances Act, 1883;

“firearm” has the meaning assigned to it by the Firearms Acts, 1925 to 1990.

- (b) In this section references to arms or firearms or ammunition or an explosive or explosive substance include references to any substance or thing that is a firearm or ammunition or an explosive or explosive substance for the purpose of the corresponding law and references to decommissioning and decommissioned shall be construed accordingly.

[1997.]

Decommissioning Act, 1997.

[No. 3.]

7.—(1) The Minister may make regulations for any purpose in relation to which regulations are provided for by any of the provisions of this Act. General provisions as to regulations.

(2) Regulations under this section shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling the regulations is passed by either such House within the next 21 days on which that House has sat after the regulations have been laid before it, the regulations shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(3) Without prejudice to any specific provision of this Act, any regulations may contain such incidental or supplementary provisions as may appear to the Minister to be expedient for the purposes of the regulations.

8.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses.

9.—(1) This Act may be cited as the Decommissioning Act, 1997. Short title and commencement.

(2) This Act (other than *section 3*) shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.