

**Bulletin of Acts and Decrees
of the Kingdom of the Netherlands**

1995

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Act of 8 June 1995 containing rules on the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention Implementation Act)

We, Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

Greetings to all who may see or hear these presents! Be it known:

Whereas we have considered that, partly in view of article 12 of the Constitution, it is necessary to lay down rules for the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction;

We, therefore, having heard the Council of State, and in consultation with the States-General, have approved and decreed as we hereby approve and decree:

CHAPTER 1: DEFINITIONS

Section 1

For the purposes of this Act and the provisions based thereon, the following words have the following definitions:

- a. Convention: the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Netherlands Treaty Series 1993, 162), as agreed in Paris on 13 January 1993;
- b. chemical: chemical elements and their compounds, as arising naturally or through production, including the additives required to preserve the stability of the product and impurities resulting from the production process;
- c. toxic chemical: any chemical which, through its chemical action on life processes,

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can cause death, temporary incapacitation or permanent harm to humans or animals;

- d. precursor: any chemical reactant which takes part at any stage in the production, by whatever method, of a toxic chemical, including any key component of a binary or multicomponent chemical system;
- e. chemical weapons:
 - 1. toxic chemicals and their precursors, except where intended for purposes not prohibited under the Convention, as long as the types and quantities are consistent with such purposes;
 - 2. munitions and devices specifically designed to cause death or other harm through the toxic properties of toxic chemicals which would be released as a result of the employment of such munitions and devices;
 - 3. any equipment specifically designed for use directly in connection with the employment of munitions and devices;
- f. facility: an establishment within the meaning of section 1.1, paragraphs 1 and 4 of the Environmental Management Act;
- g. plant site, plant and unit: as defined in part 1, paragraph 6 of the Verification Annex to the Convention;
- h. production of chemicals: the formation of chemicals by means of a chemical reaction;
- i. processing of a chemical: the application of a physical process, such as formulation, extraction and purification, in which a chemical is not transformed into another chemical;
- j. consumption of a chemical: the transformation of a chemical into another chemical by means of a chemical reaction;
- k. import and export: import and export within the meaning of the Import and Export Act;
- l. international routine inspection: an inspection within the meaning of article VI, paragraphs 3, 4 and 5 of the Convention, for the purpose of verifying compliance with the Convention;
- m. international challenge inspection: an inspection within the meaning of article IX, paragraph 8 of the Convention, for the purpose of verifying compliance with the Convention;
- n. international inspection team: inspectors and assistant inspectors assigned by the Director-General of the Organisation for the Prohibition of Chemical Weapons to conduct an international routine or challenge inspection;

- o. escort team: the officials appointed by Our Minister to support the international inspection team;
- p. Our Minister: Our Minister for Economic Affairs.

CHAPTER 2: CHEMICALS AND CHEMICAL PRODUCTION FACILITIES

1. Prohibitions

Section 2

1. The development, production, acquisition by other means, stockpiling, retaining, transfer and use of chemical weapons shall be prohibited.
2. The development, production, acquisition, stockpiling, retaining, transfer and use of toxic chemicals, including their precursors, for the purpose of developing, producing, acquiring by other means, stockpiling, retaining or transferring or using chemical weapons shall be prohibited.
3. Subsection 1 shall not apply if the Criminal Law in Wartime Act applies.

Section 3

1. The development, production, acquisition by other means, stockpiling, retaining, transfer and use of chemicals designated by or pursuant to an order in council shall be prohibited. The designated chemicals shall include the chemicals referred to in article VI, paragraph 3 of the Convention.
2. Subsection 1 shall not apply to the production of chemicals in laboratories in quantities of less than 100 grams per year per facility, if such chemicals are intended for research purposes or for medical or pharmaceutical purposes.
3. Subsection 1 shall not apply to the development, production, acquisition, stockpiling, retaining, transfer and use of the chemicals for research, medical, pharmaceutical or protective purposes at a facility designated by Our Minister.
4. Our Minister may grant dispensation from the prohibition contained in subsection 1 for:
 - a. the production, acquisition, stockpiling, retention and use of chemicals for research, or for medical or pharmaceutical purposes in a facility other than the facility referred to in subsection 3, if the quantities of such chemicals amount to less than 10 kg per year;

b. the transfer of chemicals for the purposes referred to in point a. to a facility as referred to in subsections 3 or 4a, or to a state that is party to the Convention, unless the chemicals are intended for transit to a state that is not a party to the Convention.

' 2. Declarations

Section 4

1. Any person operating a facility as referred to in section 3, subsection 2 shall provide Our Minister with the information designated by order in council. The designated information shall include the information referred to in part VI(D), paragraphs 13 to 16 of the Verification Annex to the Convention. The first sentence of this subsection shall not apply if the facility in question is a hospital.
2. Any person operating a facility as referred to in section 3, subsection 3 shall provide Our Minister with the information designated by order in council. The designated information shall include the information referred to in part VI(D), paragraphs 13 to 16 of the Verification Annex to the Convention.
3. Any person granted a dispensation as referred to in section 3, subsection 4a shall provide Our Minister with the information designated by order in council. The designated information shall include the information referred to in part VI(D), paragraphs 17 to 20 of the Verification Annex to the Convention.
4. Any person granted a dispensation as referred to in section 3, subsection 4b shall provide Our Minister with the information designated by order in council. The designated information shall include the information referred to in part VI(B), paragraphs 5 and 6 of the Verification Annex to the Convention.

Section 5

1. Any person operating a facility at which chemicals designated by or pursuant to an order in council are produced, processed or used in quantities as indicated in that order in council shall provide Our Minister with the information designated by order in council. The designated chemicals shall include the chemicals referred to in Article VI, paragraphs 4 and 5 of the Convention. The designated information shall include the information referred to in part VII(A), paragraphs 6 to 8 or in part VIII(A), paragraphs 6 to 8 of the Verification Annex to the Convention.

2. Any person that operates or formerly operated a facility at which the chemicals referred to in subsection 1 were produced in the period from 1 January 1946 until the date on which this Act entered into force, with the purpose of developing chemical weapons, shall provide Our Minister with the information designated by order in council. The designated information shall include the information referred to in part VII(A), paragraph 10 or part VIII(A), paragraph 10 of the Verification Annex to the Convention.
3. Any person that imports or exports the chemicals referred to in subsection 1 shall notify Our Minister of the imported and exported quantities, stating the country of origin or destination.

Section 6

Any person operating a facility as referred to in Article VI, paragraph 6 of the Convention, at which chemicals designated by or pursuant to an order in council are produced in quantities as indicated in that order in council, shall provide Our Minister with the information designated by order in council. The designated chemicals shall include the chemicals referred to in article VI, paragraph 6 of the Convention and the information referred to in part IX, paragraphs 4 to 6 of the Verification Annex to the Convention.

Section 7

Any person that has submitted a declaration in accordance with sections 4 to 6 shall keep the information referred to in those sections for at least five years following the submission of the declaration.

Section 8

Further rules for the implementation of the provisions of sections 3 to 6 shall be laid down by or pursuant to an order in council.

CHAPTER 3: SUPERVISION

Section 9

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1. The officials designated by decision of Our Minister shall be charged with monitoring compliance with the provisions laid down by or pursuant to this Act.
2. Decisions as referred to in subsection 1 shall be announced through publication in the Government Gazette.
3. The officials referred to in subsection 1 shall carry proof of identity during the performance of their duties.
4. Without prejudice to section 1, subsections 1 and 2 of the General Act on Entry into Dwellings, the officials referred to in subsection 1 shall immediately show their identification upon request.
5. The identification shall contain a photograph of an official referred to in subsection 1 and shall in any event state their name and official capacity.

Section 10

1. The supervisory officials shall exercise their powers only in so far as can reasonably be deemed necessary in order to perform their tasks.
2. The supervisory officials are authorised to enter, with the necessary equipment, any location except for a dwelling without the permission of the occupant. If necessary, they may enter a location with the help of the police. They have the right to be accompanied by such persons as they designate for that purpose.
3. The supervisory officials are authorised to request information.
4. The supervisory officials are authorised to request access to commercial information and documents. They are authorised to make copies of such information. If copies cannot be made at the location, they are authorised to take the information and documents away with them for a short period for that purpose, after issuing a written receipt.
5. The supervisory officials are authorised to inspect property, record it and take samples of it. They are authorised to open packaging. If the inspection, recording or sampling cannot take place at the location, they are authorised to take such property away with them for a short period for that purpose, after issuing a written receipt. Any samples taken shall be returned as far as possible.
6. The supervisory officials are authorised to inspect means of transport for which they have a supervisory task.
7. The supervisory officials are authorised to inspect the cargoes of means of transport if they have good reason to believe that such means of transport are used to ship property for which they have a supervisory task.

8. The supervisory officials are authorised to request that the driver or navigator of the means of transport allow them to inspect the legal documents for which they have a supervisory task.
9. With a view to exercising these powers, the supervisory officials are authorised to request that the driver of a vehicle or the navigator of a vessel stop the means of transport and transfer it to a location that they designate.

Section 11

1. All persons are obliged to provide the supervisory officials with all the assistance with the exercise of their powers that can reasonably be requested.
2. Persons who are bound by an obligation of secrecy on the basis of their office, profession or statutory provisions may refuse to provide assistance, in so far as this is a result of their obligation of secrecy.
3. Subsection 2 shall not apply to the officials referred to in section 32 of the Working Conditions Act in conjunction with section 77 of the Factories Act 1919, section 18.4 of the Environmental Management Act, section 55 of the Chemical Waste Act and section 64 of the Chemical Substances Act in conjunction with section 18.4 of the Environmental Management Act.

CHAPTER 4: INTERNATIONAL ROUTINE AND CHALLENGE INSPECTIONS

Section 12

1. Our Minister shall appoint the head of the escort team.
2. In an international routine or challenge inspection, the head of the escort team is authorised to request that all persons provide the international inspection team and the escort team with all the assistance necessary for the performance of their tasks under the Convention.

Section 13

1. The international inspection team is authorised to enter, accompanied by the escort team and with the necessary equipment, plant sites, plants and units in the performance of an international routine inspection, in so far as it considers this necessary in order to perform that inspection. If necessary, the head of the escort

team may request police assistance for that purpose.

2. The international inspection team is authorised to enter, accompanied by the escort team and with the necessary equipment, any location in the performance of an international challenge inspection, in so far as it considers this necessary in order to perform that inspection. If necessary, the head of the escort team may request police assistance for that purpose.
3. Notwithstanding section 1, subsection 1 of the General Act on Entry into Dwellings, the members of the escort team are required to show proof of identity and to state the purpose of their entry before entering a dwelling.
4. Notwithstanding section 2, subsection 1 of the General Act on Entry into Dwellings, the international inspection team, accompanied by the escort team, may enter a dwelling without authorisation and without the permission of the occupant.
5. The head of the escort team shall draw up a written report as referred to in section 10, subsection 1 of the General Act on Entry into Dwellings. The report shall state the names and the official capacity of the members of the escort team and of the inspectors.

CHAPTER 5: OTHER PROVISIONS

Section 14

Dutch nationals who violate the provisions laid down by or pursuant to section 2 and section 3, subsection 1 outside the Netherlands shall be subject to Dutch criminal law.

Section 15

The Economic Offences Act¹ shall be amended as follows:

- a. the following shall be included in the list in section 1, under 1: section 2 and section 3, subsection 1 of the Chemical Weapons Convention Implementation Act;
- b. the following shall be included in the list in section 1, under 4: sections 4 to 8 of the Chemical Weapons Convention Implementation Act.

CHAPTER 6: FINAL PROVISIONS

¹**Bulletin of Acts and Decrees 1950, K 258, last amended by the Act of 31 May 1995, Bulletin of Acts and Decrees 313.**

Section 16

This Act shall enter into force on a date to be determined by royal decree.

Section 17

This Act may be cited as the Chemical Weapons Convention Implementation Act.

We order and command that this Act be published in the Bulletin of Acts and Decrees and that all ministries, authorities, bodies and officials whom it may concern shall diligently implement it.

Done at The Hague on 8 June 1995

Beatrix

A. van Dok-van Weele
State Secretary for Economic Affairs

H.F. Dijkstal
Acting Minister for Foreign Affairs

W. Sorgdrager
Minister of Justice

H.F. Dijkstal
Minister of the Interior

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W. Sorgdrager
Minister of Justice

For the debates in the States-General, see:

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Parliamentary Papers II 1994/95, 23 911.

Proceedings II, 1994/95, pp. 4089-4114, 4269-4270.

Parliamentary Papers I 1994/95, 23 911 (264, 264a, 264b).

Proceedings I 1994/95, see session of 6 June 1995.