

**LAW
of 22 June 2001**

**on the implementation of the Convention on the prohibition
of the development, production, stockpiling and use of chemical weapons
and on their destruction**

(J. of L.¹ No. 76, item 812)

**Chapter 1
General provisions**

Article 1.

This Law determines the principles of the implementation in the territory of the Republic of Poland of the obligations resulting from the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, done at Paris on 13 January 1993 (J. of L. of 1999, No. 63, item 703), hereinafter referred to as “the Convention”.

Article 2.

1. The provisions of this Law shall apply to the natural persons in the territory of the Republic of Poland, legal persons and organisational units without legal personality and other entities with place of business in the territory of the Republic of Poland, as well as foreign entrepreneurs carrying out in the territory of the Republic of Poland the activity with chemicals and their precursors, covered by the Convention.
2. The territory of the Republic of Poland shall also include aircraft and vessels as well as other navigating units, of the Polish nationality.

Article 3.

1. Whenever this Law refers to the “chemical weapons”, “toxic chemicals”, “discrete organic chemicals”, “precursors”, “riot control agents”, “chemical weapons production facilities” as well as “purposes not prohibited under the Convention”, these terms shall have the meaning used by the Convention.
2. The term “escorting team” shall mean “in-country escort” in the meaning of the Convention.

¹ Journal of Laws of the Republic of Poland

Chapter 2

Prohibitions and limitations

Article 4

It is prohibited in the territory of the Republic of Poland, subject to Article 5:

- 1) development, production, manufacturing, processing, consumption or otherwise acquiring, collecting, stockpiling, sale or transfer to anyone of chemical weapons,
- 2) use of chemical weapons,
- 3) engaging in any military preparations to use chemical weapons,
- 4) use of riot control agents as a method of warfare,
- 5) abetting or assistance in engaging in the activity prohibited under subparagraphs 1-4 above.

Article 5.

The production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors, mentioned in Schedule 1 of the Annex of Chemicals to the Convention, hereinafter referred to as “the Schedule 1”, may be carried out only for the purposes not prohibited under the Convention and in the amounts allowed therein and in accordance with its requirements.

Article 6.

1. The production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1 may be carried out on the basis of a permit.
2. The permit referred to in paragraph 1 shall be issued by the minister for economy, subject to paragraph 3.
3. The permits referred to in paragraph 1, for the organisational units and cells subjected to the Minister for National Defence and supervised by it, as well as for state-owned enterprises, for which it is founding organ, shall be issued by the Minister for National Defence.

Article 7.

1. The permit for production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors, mentioned in the Schedule 1 is independent of the entry to the record of entrepreneurs as well as of the concession and permission, referred to in the provisions related to the business activity.

2. Granting, refusal to grant, modification and withdrawal of permit or limitation of the scope thereof in relation with the application shall be effected through administrative decision.
3. The permit shall be granted for a limited period of time, not shorter than 2 years and not longer than 50 years.
4. To granting, refusal to grant, modification and withdrawal of permit or limitation of the scope thereof in relation with the application the provisions of Article 16, Article 17 par. 1 and 2, Article 18, Article 20, Article 21 par. 1-5, Article 22, Article 23 and Article 26 of the Law of 19 November 1999 – Law on Business Activity (J.of L. No. 101, item 1178, of 2000, No. 86, item 958, No. 114, item 1193 and of 2001 No. 49, item 509) shall apply accordingly.

Article 8.

The minister for economy shall determine through regulation the procedure of issuing of permits for the production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1. The said regulation shall determine in particular:

- 1) the specimen of applications to issue permit for production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1,
- 2) documents to be attached to the applications, referred to in subparagraph 1,
- 3) specimen of permit for production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1.

Article 9.

1. The Minister for National Defence shall determine through regulation the scope and detailed conditions of production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1 in the organisational units and cells subjected to or supervised by it as well as in the state-owned enterprises for which it is founding organ. The regulation shall determined in particular:
 - 1) manner of preparation of the applications for permit to carry out the activity referred to in Article 6 as well as the documents to be attached to the applications,
 - 2) organisational units authorised to produce toxic chemicals or their precursors for protective purposes,
 - 3) conditions of production of toxic chemicals or their precursors for research, medical or pharmaceutical purposes,
 - 4) procedure and periods of transfer of information connected with the production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1,
 - 5) conditions of training of military forces related to the use of toxic chemicals.

2. The Minister for National Defence shall transfer to the minister for economy the copies of the issued permits for production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors in the organisational units and cells referred to in par. 1.

Chapter 3

Trade with abroad with toxic chemicals and their precursors

Article 10.

1. The importation, exportation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 1 is allowed, subject to permission, and furthermore subject to Article 11.
2. The permission for importation, exportation and transit referred to in par. 1 shall be issued by the minister for economy in accordance with the principles and in the manner determined in the Law of 29 November 2000 on the trade with abroad with strategic goods, technologies and services relevant to national security, as well as for the maintenance of international peace and security and amending certain laws (J. of L. No. 119, item 1250).

Article 11.

1. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 1, to and from the States, which are not party to the Convention is prohibited.
2. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 1, to and from the States - Parties to the Convention is allowed only for the purposes not prohibited under the Convention and in the amounts allowed therein and in accordance with its requirements.

Article 12.

1. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 2 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 2" is allowed only to and from States – Parties to the Convention.
2. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 3 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 3" is allowed only to and from States – Parties to the Convention, subject to par. 3.
3. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors, mentioned in the Schedule 3 from the States – Parties to

the Convention is allowed to and from States, which are not party to the Convention, provided that in case of the exportation and transit to these States, such exportation and transit shall be subject to the delivery of end user declaration, issued by competent authorities of the said States.

4. The declaration referred to in par. 3 shall contain the data determined in the Article 23 par. 4 of the Law of 29 November 2000 on the trade with abroad with strategic goods, technologies and services relevant to national security, as well as for the maintenance of international peace and security and amending certain laws.

Chapter 4

Declarations and their verification

Article 13.

1. The minister for economy shall maintain the national system of collection and processing of data connected with the activity covered by the Convention and shall prepare draft declarations required by the Convention.
2. The minister for economy shall transmit draft declarations referred to in par. 1 to the minister for foreign affairs.

Article 14.

1. The entities and entrepreneurs, referred to in Article 2, carrying out the activity with toxic chemicals and their precursors, covered by the provisions of the Convention shall transmit to the minister for economy, the information on that activity connected with:
 - 1) production, manufacturing, consumption, processing, acquiring, collecting, storage, sale, transfer and use of chemicals mentioned in the Schedule 1, taking into account the provisions of Part VI of the Annex on implementation and verification to the Convention,
 - 2) production, consumption, processing or trade with chemicals mentioned in the Schedule 2, taking into account the provisions of Part VII of the Annex on implementation and verification to the Convention,
 - 3) production or trade with chemicals mentioned in the Schedule 2, taking into account the provisions of Part VIII of the Annex on implementation and verification to the Convention,
 - 4) production of discrete organic chemicals not mentioned in the Schedule 1, Schedule 2 and Schedule 3, taking into account the provisions of Part IX of the Annex on implementation and verification to the Convention,
 - 5) trade with abroad with toxic chemicals and their precursors mentioned in the Schedule 1, Schedule 2 and Schedule 3,
 - 6) possessing of riot control agents.
2. The entities and entrepreneurs referred to in Article 2 shall transmit every year the information referred to in par. 1, within the following periods:

- 1) before 30 September – in case of the information, which relates to the activity planned in the following calendar year,
 - 2) before 28 February – in case of the information, which relates to the activity carried out in the preceding calendar year.
3. The information referred to in par. 1 shall be true, reliable and full as well as shall meet the requirements determined in the Convention.
 4. The minister for economy, in consultation with the minister for foreign affairs and Minister for National Defence shall determine through regulation the detailed data, which should be included by the information referred to in par. 1. The regulation shall determine in particular:
 - 1) the specimen of declarations, which should contain the information on the activity with chemicals and their precursors covered by the provisions of the Convention,
 - 2) procedure and periods of transmission of information for the purposes of the preparation of the declarations.

Article 15.

1. The information referred to in Article 14 par. 1-3 shall be subject to verification.
2. The minister for economy shall be the organ competent for the verification referred to in par. 1, except the organisational units and cells subjected to the Minister for National Defence and supervised by it, as well as state-owned enterprises, for which it is founding organ.
3. The verification referred to in par. 1, in the organisational units and cells subjected to the Minister for National Defence and supervised by it, as well as in the state-owned enterprises for which it is founding organ, shall be carried out by the Minister for National Defence.
4. To the verification referred to in par. 1 the provisions of the Law of 28 September 1991 on treasury control (J. of L. of 1999, No. 54, item 572, No. 83, item 931, of 2000 No. 70, item 816, No. 104, item 1103, No. 116, item 1216 as well as of 2001 No. 14, item 143) concerning control proceedings as well as the provisions of Articles 29-31 of the Law of 29 November 2000 on the trade with abroad with strategic goods, technologies and services relevant to national security, as well as for the maintenance of international peace and security and amending certain laws, shall apply accordingly.

Chapter 5 Inspection activity

Article 16.

The inspection team, within its tasks determined in the Annex on implementation and verification to the Convention shall be entitled to:

- 1) enter the premises of each facility in the territory of the Republic of Poland in relation with which:
 - a) the information or declaration was submitted in connection with the activity carried out in accordance with Article VI of the Convention,
 - b) challenge inspection was requested in accordance with Article IX par. 8 of the Convention,
 - c) an investigation has been initiated in accordance with Article X par. 9 of the Convention,
- 2) carry out other inspection activity, in accordance with the Convention,
- 3) use equipment authorised in accordance with the Convention, including installation of equipment used for permanent monitoring of the facilities,
- 4) interview the owner of the controlled facility or his/her representative,
- 5) review documents and records,
- 6) take samples for analysis.

Article 17.

1. The inspection team shall be accompanied by escorting team, designated by the minister competent for the controlled facility, in consultation with the minister for foreign affairs.
2. The members of the escorting team shall have the same rights as the members of the inspection team referred to in Article 16.

Article 18.

1. During the inspection the controlled entities and entrepreneurs, referred to in Article 2 above, shall in relation with the inspection team and the escorting team:
 - 1) make available the facilities and plants, in which the activity is carried out with chemicals and their precursors covered by the provisions of the Convention,
 - 2) be present during the inspection,
 - 3) provide with relevant information and facilitate insight into the documents and records within the scope of control,
 - 4) make copies of requested documents and records,
 - 5) take samples or co-operate in taking of samples,
 - 6) facilitate to the inspection team the use of communications services as well as, if possible, other equipment in the controlled facility,
 - 7) ensure appropriate working conditions, including individual premises and places for storage of documents.
2. During the inspection the provisions of Article 17 par. 2, 3 and 5 of the Law of 28 September 1991 on treasury control shall apply accordingly.

Article 19.

During the inspection the controlled entities and entrepreneurs, referred to in Article 2 above shall be entitled to:

- 1) participate in the works of the escorting team,

- 2) submit explanations and formulate reservations during the inspections,
- 3) be acquainted with findings of the inspection and collected documentation,
- 4) receive the report of the inspection and formulate observations thereto,
- 5) participate in de-briefing meetings of the inspection and formulate observations.

Article 20.

1. The costs connected with the inspection shall be borne from the funds of the state budget, which shall be planned by appropriate ministers regarding their respective parts of the budget.
2. The ministers competent for the inspections shall submit to the minister for foreign affairs the application for the compensation of the incurred costs, which shall be transmitted to the Organisation for the Prohibition of Chemical Weapons, hereinafter referred to as “the Organisation”.

Article 21.

The Council of Ministers shall determine through regulation the detailed procedure for the receipt of inspections of the Organisation in the territory of the Republic of Poland. The regulation shall determine in particular:

- 1) procedure of notification on the inspection,
- 2) composition of the escorting team,
- 3) obligations of the minister competent for inspected facility, related to:
 - a) notification of competent authorities as well as owner of the facility on planned inspection,
 - b) preparation of the inspection,
 - c) assurance to the inspection team and escorting team of access to the facility covered by the inspection, transportation to and from the inspection site, accommodation, working premises, translations, use of communication services as well as medical care,
 - d) assurance that the inspection is carried out in accordance with the procedures set forth in the Convention,
- 4) manner of coverage of inspection costs as well as procedure of application to the Organisation for the compensation of incurred costs.

Chapter 6 Protection of information

Article 22.

1. The information obtained in connection with the implementation of the Convention, marked with the clause “OPCW restricted” shall be protected and made available in accordance with the principles determined in the law of 22 January 1999 on the protection of secret information (J. of L. No. 11, item 95, of 2000 No. 12, item 136, No. 39, item 162

and of 2001 No. 22, item 247 and No. 27, item 298) related to the secret information marked with the clause “restricted”.

2. The information obtained in connection with the implementation of the Convention, marked with the clause “OPCW protected” shall be protected and made available in accordance with the principles determined in the law referred to in par. 1, related to the secret information marked with the clause “confidential”.
3. The information obtained in connection with the implementation of the Convention, marked with the clause “OPCW highly protected” shall be protected and made available in accordance with the principles determined in the law referred to in par. 1, related to the secret information marked with the clause “secret”.
4. The information obtained from the entities and entrepreneurs, referred to in Article 2 above, in connection with the obligation referred to in Article 14, and marked with appropriate clauses shall be protected and made available in accordance with the principles determined in the law referred to in par. 1, accordingly to the clause attributed to it.

Chapter 7

Competencies of the organs of public administration

Article 23.

1. The functions of the National Authority referred to in the Convention shall be carried out by the minister for foreign affairs.
2. The tasks of the minister for foreign affairs, as National Authority, shall include:
 - 1) preparation and realisation of the assumptions of the policy of the Republic of Poland in relation with the Organisation,
 - 2) contacts with the Organisation and with other States – Parties to the Convention within the issues connected with the implementation of its provisions,
 - 3) co-participation in the receipt of inspections of the Organisation in the territory of the Republic of Poland,
 - 4) co-ordination of actions undertaken in the territory of the Republic of Poland in connection with the implementation of the obligations resulting from the Convention,
 - 5) provision to the States – Parties to the Convention, in consultation with the Minister for National Defence, through the Organisation, of assistance in case of threat of use or use against them of chemical weapons, in accordance with the provisions of the Convention.

Article 24.

1. Minister for economy shall supervise the activity connected with the implementation of the provisions of the Convention in the territory of the Republic of Poland.
2. When supervising the activity referred to in par. 1 the minister for economy shall:

- 1) maintain national system of collection and processing of data resulting from the activity referred to in Articles 5-12, as well as shall prepare draft declarations required by the Convention and shall transmit them to the minister for foreign affairs,
- 2) monitor the activity of entities and entrepreneurs referred to in Article 2 above, in the sphere of the implementation of the Convention in the Republic of Poland, except the organisational units and cells subjected to the Minister for National Defence and supervised by it as well as state-owned enterprises for which it is founding organ; in particular it shall ensure the monitoring of trade with abroad with toxic chemicals and their precursors, mentioned in the Schedule 1, Schedule 2 and Schedule 3,
- 3) ensure, in co-operation with the Minister for National Defence the possibility of chemical analyses connected with the implementation of the Convention,
- 4) carry out, in co-operation with the minister for foreign affairs, Minister for National Defence and minister for interior the activity connected with the preparation, receipt and realisation of inspections of the Organisation in the territory of the Republic of Poland , except the organisational units and cells subjected to the Minister for National Defence and supervised by it as well as state-owned enterprises for which it is founding organ, as well as the organs and organisational units subjected to and supervised by the minister for interior.

Article 25.

1. The Minister for National Defence shall ensure the implementation of the Convention by the organisational units and cells subjected to and supervised by it as well as state-owned enterprises for which it is founding organ, through:
 - 1) monitoring of the implementation of the Convention,
 - 2) assurance, in co-operation with the minister for economy, of possibility of chemical analyses connected with the implementation of the Convention,
 - 3) – in co-operation with the minister for foreign affairs, minister for economy and minister for interior – the activity connected with the preparation, receipt and carrying out of the inspections of the Organisation.
2. The Minister for National Defence may designate, upon request of the minister for foreign affairs, within possessed forces and assets destined for the protection against the chemical weapons, the part thereof in order to provide, through the Organisation, other States – Parties to the Convention, with the assistance in case of threat of use or use against them of chemical weapons.

Article 26.

1. The minister for interior shall monitor the implementation of the Convention in the organs and organisational units subjected to or supervised by it, as well as shall determine the tasks of the said organs and units to this end.
2. The minister for interior shall ensure:
 - 1) border control of inspection teams in accordance with the principles applied to the members of diplomatic personnel in designated border crossing points,
 - 2) security to the members of the inspection teams during their stay in the territory of the Republic of Poland and during their transit,

- 3) – in co-operation with the minister for foreign affairs and minister for economy – the activity connected with the preparation, receipt and carrying out of inspections of the Organisation in the organisational units subjected to and supervised by it.

Chapter 8 Penal sanctions²

Article 27.

A person who uses riot control agents as a method of warfare, shall be sentenced to imprisonment for 1 year up to 10 years.

Article 28.

1. A person who, without required permit or in contravention of its conditions, for the purposes not prohibited under the Convention, produces, manufactures, processes, acquires, collects, stores, sells, transfers, uses or possesses toxic chemicals or their precursors mentioned in the Schedule 1, shall be sentenced to fine, limitation of freedom or imprisonment for 3 months up to 5 years.
2. The same penalty shall be applicable to a person who transfers the toxic chemicals or their precursors mentioned in the Schedule 1 to unauthorised person.

Article 29.

A person, who without required permit or in contravention of its conditions, effects trade with abroad with toxic chemicals or their precursors, mentioned in the Schedule 1, shall be sentenced to fine, limitation of freedom or imprisonment for 3 months up to 5 years.

² This Law does not repeat the sanctions contained in the Penal Code of the Republic of Poland, which relate to the weapons of mass destruction. Articles 120 and 121 of the Code state the following:

“Art. 120. A person who uses the weapon of mass destruction prohibited by international law, shall be sentenced to imprisonment for the time not shorter than 10 years, for 25 years or for life.

Art. 121. § 1. A person who, in contravention of the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use,

shall be sentenced to imprisonment for 1 year up to 10 years.

§ 2. The same penalty shall be applicable to a person, who allows the commitment of the act referred to in § 1. “

Article 30.

1. A person who fails to meet the obligation to inform authorised organ or transmits false information on the activity connected with toxic chemicals or their precursors, covered by the Convention, shall be sentenced to fine, limitation of freedom or imprisonment for 3 months up to 5 years.
2. If the perpetrator of the act referred to in par. 1 acts unintentionally, shall be sentenced to fine, limitation of freedom or imprisonment for up to 1 year.

Article 31.

A person who refuses the access to the inspection team or escorting team to the controlled facility, submits false information to the members of the said teams or otherwise impedes or hinders the inspection, shall be sentenced to fine, limitation of freedom or imprisonment for up to 3 years.

Article 32.

In case of sentence for the crime determined in Article 27-29 the court may rule the seizure of goods, technologies and other objects used in or destined for the commitment of crime or obtained directly or indirectly from the crime, including monetary means, securities and currency values, as well as other property benefits, even if not owned by the perpetrator.

Chapter 9
Transitional and final provisions

Article 33.

The entities and entrepreneurs carrying out on the day of the entry into force of this Law the activity without permit, referred to in Article 6 par. 1 may within 30 days as from the entry into force of this Law apply to the competent organ for the issuance of required permit.

Article 34.

This Law shall enter into force after 3 months as from its publication.³

³ The Law entered into force on 26 October 2001.