

Explanatory Memorandum

Cluster Munitions (Prohibition) Bill 2006

A 'cluster munition' is a bomb specifically designed to cause death or harm by deploying one or more submunitions. The purpose of this bill is to ensure that innocent civilians in conflict zones are not maimed, killed, or put at risk as a result of Australians possessing, using, or manufacturing cluster munitions.

In particular, the bill prevents members of the Australian Defence Force, whether serving in Australia or elsewhere, and whether serving with the Australian Defence Force or any other defence force, from deploying cluster munitions.

Under the bill, a person must not intentionally develop, produce, otherwise acquire, stockpile, retain, transfer, use or engage in military preparations to use cluster munitions, container units or submunitions.

A member of the ADF must not engage in military preparations for a member of the defence force of another country to use cluster munitions, container units or submunitions.

The bill extends to acts by an Australian citizen outside Australia and to acts done on board Australian ships and aircraft.

The offences set out in the bill do not apply in relation to the clearing of unexploded submunitions, education in relation to cluster munitions, or decommissioning.

The bill provides that any Australian citizen or resident in Australia or an external territory may take certain legal steps to ensure that it is properly complied with.

Under the bill, the Defence Minister must, within three months of the commencement of the Act, table in both Houses of the Federal Parliament a report on stockpiles and a decommissioning plan. Further, he or she must, within one year, decommission all cluster munitions in the possession of the Australian Defence Force.

If, as a result of an offence under this bill, a cluster munition is deployed, then that munition must be cleared, removed or destroyed in accordance with Australia's obligations under a particular treaty.