



**ICRC**

**ADVISORY SERVICE**  
ON INTERNATIONAL HUMANITARIAN LAW

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**MODEL LAW FOR THE TREATY ON THE  
PROHIBITION OF NUCLEAR WEAPONS**

**PROHIBITION OF NUCLEAR WEAPONS ACT [INSERT YEAR OF ADOPTION]**  
***An Act to give effect to the 2017 Treaty on the Prohibition of Nuclear Weapons***

*(Model law drafted by the International Committee of the Red Cross)*

**PART I – INTRODUCTORY PROVISIONS**

**1. Short title**

This Act shall be cited as the Prohibition of Nuclear Weapons Act [INSERT YEAR OF ADOPTION].

**2. Commencement**

This Act shall come into effect on [INSERT DATE].

**3. Purpose**

The purpose of this Act is to fulfil [INSERT COUNTRY NAME]'s obligations under the Treaty and as amended from time to time.

**4. Publication of amendment**

The Minister shall, as soon as practicable after any amendment to the Treaty is adopted by the meeting of States Parties or a review conference pursuant to Article 10 of the Treaty (and ratified or accepted by [INSERT NAME OF COUNTRY]), cause a copy of the amendments to be published in the [INSERT NAME OF OFFICIAL GAZETTE].

**5. Act to bind the State**

This Act is binding on [INSERT COUNTRY NAME].

**PART II – IMPLEMENTATION OF THE TREATY**

**6. Interpretation**

In this Act –

“Competent international authority” means the authority or authorities designated by the States party to the 2017 Treaty on the Prohibition of Nuclear Weapons for the purpose of negotiating and verifying the irreversible elimination of nuclear-weapons programmes, including the elimination or irreversible conversion of all nuclear-weapons-related facilities.<sup>1</sup>

“IAEA” means the International Atomic Energy Agency.

“Minister” means the minister responsible for administering this Act.

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<sup>1</sup> Treaty on the Prohibition of Nuclear Weapons, Art. 4, para. 6.

“Nuclear weapon” means a device consisting of a nuclear explosive and a delivery system that releases nuclear energy in an explosive manner as the result of nuclear chain reactions involving the fission or fusion or both of atomic nuclei.<sup>2</sup>

“Other nuclear explosive device” means any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used. The term includes such a weapon or device in unassembled and partly assembled forms but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it.<sup>3</sup>

“Transfer” means the transfer of title over nuclear weapons or other nuclear explosive devices, with or without their physical movement.

“Treaty” means the 2017 Treaty on the Prohibition of Nuclear Weapons.

## **7. Prohibitions**

(1) No person shall use or threaten to use nuclear weapons or other nuclear explosive devices.

(2) No person shall directly or indirectly:

(a) develop, test, produce, manufacture, otherwise acquire, possess or stockpile nuclear weapons or other nuclear explosive devices<sup>4</sup>

(b) transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices

(c) receive the transfer of or control over nuclear weapons or other nuclear explosive devices

(d) allow any stationing, installation or deployment of any nuclear weapons or other nuclear explosive devices in [INSERT COUNTRY NAME]’s territory or at any place under its jurisdiction or control.

(3) No person shall assist, encourage or induce anyone to engage in any activity referred to in paragraph (1) or (2) above.

(4) No person shall seek or receive any assistance, in any way, from anyone to engage in any activity referred to in paragraph (1) or (2) above.

(5) The [INSERT RELEVANT GOVERNMENT AGENCY] and its designated officers shall be authorized to acquire, possess, retain, transport and transfer control over nuclear weapons or other nuclear explosive devices, and receive such control, exclusively for the purposes of destruction, verification or removal to the government that owns, possesses or controls such weapons or explosive devices in accordance with Article 4, paragraph 4 of the Treaty.

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<sup>2</sup> Comprehensive Nuclear-Test-Ban Treaty Organization Glossary.

<sup>3</sup> *Idem*.

<sup>4</sup> Some legislation on nuclear testing also prohibits “installing nuclear devices”, which can of course be retained, e.g. New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987.

## **8. Penalties**

(1) Any person who contravenes section 7(1) shall be guilty of an offence and liable upon conviction to:

(a) in the case of an individual, imprisonment for a term not exceeding [ ] years or a fine not exceeding [ ] or both

(b) in the case of a body corporate, a fine not exceeding [ ].

(2) Any person who contravenes section 7(2), 7(3) or 7(4) shall be guilty of an offence and liable upon conviction to:

(a) in the case of an individual, imprisonment for a term not exceeding [ ] years or a fine not exceeding [ ] or both

(b) in the case of a body corporate, a fine not exceeding [ ].

(3) Where an offence under paragraph (1) or (2) of this section committed by a body corporate is proved to have been committed with the consent and connivance of, or to be attributable to any negligence on the part of, any director, manager or other similar officer of the body corporate or any person who was purporting to act in such a capacity, that person shall be guilty of that offence along with the body corporate and shall be liable to be proceeded against and punished in accordance with paragraph (1)(a) of this section.

## **9. Extraterritorial application**

Section 7 extends to conduct outside the territory of [INSERT COUNTRY NAME] by citizens of [INSERT COUNTRY NAME] and bodies corporate incorporated under the laws of [INSERT COUNTRY NAME].

## **10. Application of existing law**

(1) Nothing in this Act shall be construed as limiting, amending or otherwise altering any provision of [RELEVANT ROME STATUTE/GENEVA CONVENTIONS LEGISLATION AND CRIMINAL CODE/PENAL CODE] or as exempting any person from any duty or obligation imposed by [RELEVANT ROME STATUTE/GENEVA CONVENTIONS LEGISLATION AND CRIMINAL CODE/PENAL CODE] or as prohibiting any person from complying with any provision of [RELEVANT ROME STATUTE/GENEVA CONVENTIONS LEGISLATION AND CRIMINAL CODE/PENAL CODE].

(2) All relevant provisions of the [INSERT RELEVANT CRIMINAL PROCEDURE CODE, EVIDENCE ACT] shall apply in the application of this Act.

## **PART III – INSPECTION AND VERIFICATION**

*[This section is relevant for States owning, possessing or controlling nuclear weapons or other nuclear explosive devices or hosting such weapons or explosive devices in the meaning of Article 4, paragraph 4 of the Treaty.]*

## **11. Designation of a national authority**

(1) The Minister may, in writing, designate:

- (a) a particular agency for which the Minister is responsible or
- (b) a particular unit within such an agency or within the Ministry

as the competent national authority (hereafter “the Office”).

(2) A copy of the designation must be published in the [INSERT NAME OF OFFICIAL GAZETTE].

(3) The Office may be referred to by another name specified by the Minister by notice in the [INSERT NAME OF OFFICIAL GAZETTE]. The notice may be included in the copy of the designation published in the [INSERT NAME OF OFFICIAL GAZETTE] or published separately in the [INSERT NAME OF OFFICIAL GAZETTE].

## **12. Director of the Office**

(1) The designation must also name as the Director of the Office the holder of a particular position within the agency or unit.

(2) The Director may be referred to by another title specified by the Minister by notice in the [INSERT NAME OF OFFICIAL GAZETTE]. The notice may be included in the copy of the designation published in the [INSERT NAME OF OFFICIAL GAZETTE] or published separately in the [INSERT NAME OF OFFICIAL GAZETTE].

## **13. Functions of the Office**

The functions of the Office are as follows:

- (a) to ensure the effective operation of this Act
- (b) to fulfil, on behalf of [INSERT COUNTRY NAME], [INSERT COUNTRY NAME]’s obligations under the Treaty
- (c) in particular, to act, on behalf of [INSERT COUNTRY NAME], as the main point of contact for liaison with the competent international authority<sup>5</sup> and with other States party to the Treaty
- (d) to facilitate inspections of places in [INSERT COUNTRY NAME] if [INSERT COUNTRY NAME]’s compliance with the Treaty is challenged and/or for verification purposes
- (e) to carry out the duties and exercise the powers conferred on the Office under this Act, the regulations promulgated under section 19 or any other law of [INSERT COUNTRY NAME]
- (f) to do anything incidental or conducive to performing any of the above functions.

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<sup>5</sup> In accordance with Article 4 of the Treaty, the competent international authority shall be designated by a meeting of States Parties.

#### **14. Destruction of nuclear weapons and other nuclear explosive devices**

(1) The Office and its designated officers are authorized to destroy any nuclear weapons or other nuclear explosive devices found in [INSERT COUNTRY NAME].

(2) The Minister shall make regulations on the proper conduct of destruction.

(3) Destruction shall be carried out in accordance with the legally binding, time-bound plan for the verified and irreversible elimination of the State's nuclear-weapon programme, including the elimination or irreversible conversion of all nuclear-weapons-related facilities, which shall be negotiated and agreed on with the competent international authority in accordance with Article 4, paragraph 2 of the Treaty.

#### **15. Removal to another government**

(1) In accordance with Article 4, paragraph 4 of the Treaty, the Office and its designated officers are authorized to take all necessary measures to remove to another State any nuclear weapons or other nuclear explosive devices that that State owns, possesses or controls which are in the territory of [INSERT COUNTRY NAME] or in any other place under its jurisdiction or control.<sup>6</sup>

(2) The Minister shall make regulations on the proper conduct of such removal.

### **PART IV – SAFEGUARDS**

#### **16. IAEA Safeguards (may be section 11 if part III above is not used)**

Nothing in this Act shall be construed as limiting, amending or otherwise altering any IAEA Safeguards obligations or any provision of the Comprehensive Safeguards Agreement (INFCIRC/153 (Corrected)) or protocol additional to that agreement (INFCIRC/66/Rev.2) that [INSERT COUNTRY NAME] has signed, in accordance with Articles 3 and 4 of the Treaty or as part of [INSERT COUNTRY NAME]'s other existing obligations.

### **PART V – VICTIM ASSISTANCE AND ENVIRONMENTAL REMEDIATION**

#### **17. Victim assistance**

(1) The Minister shall task a national authority with providing individuals under [INSERT NAME OF COUNTRY]'s jurisdiction who are affected by the use or testing of nuclear weapons with adequate age- and gender-sensitive assistance, without discrimination, including medical care, rehabilitation and psychological support, as well as providing for their social and economic inclusion.

(2) The national authority shall be authorized to seek and receive assistance from States party to the Treaty for the fulfilment of [INSERT COUNTRY NAME]'s obligations related to victim assistance.

#### **18. Environmental remediation**

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<sup>6</sup> See also section 7(5) above.

(1) Where areas under [INSERT COUNTRY NAME]'s jurisdiction or control have been contaminated as a result of activities related to the testing or use of nuclear weapons or other nuclear explosive devices, the Minister shall task a national authority with taking all necessary and appropriate measures towards the environmental remediation of areas so contaminated, for the purpose of repairing, reducing or mitigating environmental damage.

(2) The national authority shall be authorized to seek and receive assistance from States party to the Treaty for the fulfilment of [INSERT COUNTRY NAME]'s obligations related to environmental remediation.

## **PART VI – FINAL PROVISIONS**

### **19. Regulations**

The Minister may make regulations providing for other such matters as are required or permitted to be prescribed, or as are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and the Treaty.

### **SCHEDULE 1: Text of the 2017 Treaty on the Prohibition of Nuclear Weapons**