Changes to Legislation: as of 3 November 2026, this Act is up to date with all changes known to be in force.

Number 13 *of* 2011

BIOLOGICAL WEAPONS ACT 2011

REVISED

Updated to 28 May 2019

This Revised Act is an administrative consolidation of the *Biological Weapons Act 2011*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Greyhound Racing Act 2019* (15/2019), enacted 28 May 2019, and all statutory instruments up to and including *European Communities (Sheep Identification) (Amendment) Regulations 2019* (S.I. No. 243 of 2019), made 28 May 2019, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

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ARRANGEMENT OF SECTIONS

Section

1. Definitions.
2. Offences — development, etc. of biological weapons.
3. Offences outside State.
4. Penalties.
5. Evidence in proceedings for offences outside State.
6. Double jeopardy.
7. Presumption relating to conduct referred to in *section 2(1)* (including as applied by *section 3*).
8. Presumption relating to conduct referred to in *section 2(2)* (including as applied by *section 3*).
9. Liability for offences by bodies corporate.
10. Forfeiture on conviction.
11. Forfeiture on application to District Court.
12. Forfeiture — fixtures.
13. Amendment of Bail Act 1997.
14. Expenses of Minister.
15. Short title.

ACTS REFERRED TO

Bail Act 1997	1997, No.16
Companies Acts	
Criminal Justice (Psychoactive Substances) Act 2010	2010, No. 22
Mercantile Marine Act 1955	1955, No. 29

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AN ACT TO GIVE FURTHER EFFECT TO THE PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING, POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE, DONE AT GENEVA ON 17 JUNE 1925; TO GIVE FURTHER EFFECT TO THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION AND STOCKPILING OF BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS AND ON THEIR DESTRUCTION, DONE AT WASHINGTON, LONDON AND MOSCOW ON 10 APRIL 1972; AND TO PROVIDE FOR RELATED MATTERS.

[10*th July*, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definitions.

1.— In this Act—

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

"hostile purpose" means a purpose other than a prophylactic, protective or other peaceful purpose;

"Minister" means the Minister for Foreign Affairs and Trade;

"prohibited weapon" means any weapon, equipment or means of delivery designed to use a microbial or other biological agent, or toxin (whatever its origin or method of production), for a hostile purpose or in armed conflict.

Offences — development, etc. of biological weapons.

2.— (1) A person shall be guilty of an offence if the person knowingly develops, produces or uses a microbial or other biological agent, or toxin (whatever its origin or method of production), for a hostile purpose.

(2) A person shall be guilty of an offence if—

(*a*) the person stockpiles, acquires, possesses or retains or transfers to another person a microbial or otherbiological agent, or toxin (whatever its origin or method of production), and

(*b*) the person does so knowing, or is reckless as to whether or not, the agent or toxin has been developed or produced or is intended to be used for a hostile purpose.

(3) A person shall be guilty of an offence if—

(*a*) the person develops, produces, uses, stockpiles, acquires, possesses or retains or transfers to another person a prohibited weapon, and

(*b*) the person does so knowing, or is reckless as to whether or not, it is a prohibited weapon.

(4) A person who attempts to commit an offence under *subsection (1)*, *(2)* or *(3)* shall be guilty of an offence.

Offences outside State.

3.— (1) A person who, in a place outside the State, engages in conduct that would, if the conduct occurred in the State, constitute an offence under *section 2* shall be guilty of an offence if—

(*a*) the conduct takes place on board an Irish ship within the meaning of section 9 of the Mercantile Marine Act 1955,

(*b*) the conduct takes place on board an aircraft registered in the State,

(*c*) the person is—

(i) an Irish citizen, or

(ii) a body corporate established under the law of the State or a company registered under the Companies Acts,

or

(*d*) the person is a member of the Defence Forces.

(2) A person to whom *subsection (1)* applies who attempts, in a place outside the State, to commit an offence under *subsection (1)*, *(2)* or *(3)* of *section 2* shall be guilty of an offence.

(3) Proceedings for an offence under this section may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

(4) If a person is charged with an offence under this section, no further proceedings in the matter (other than any remand in custody or on bail) may be taken except by, or with the consent of, the Director of Public Prosecutions.

Penalties.

4.— A person guilty of an offence under *section 2* or *3* shall be liable—

(*a*) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(*b*) on conviction on indictment to—

(i) a fine, or

(ii) imprisonment for life or such lesser term of imprisonment as the court may determine,

or both.

Evidence in proceedings for offences outside State.

5.— (1) In any proceedings relating to an offence under *section 3* in the circumstances referred to in *subsection (1)(c)(i)* of that section—

(*a*) a certificate that is signed by an officer of the Minister and stating that a passport was issued by the Minister to a person on a specified date, and

(*b*) a certificate that is signed by an officer of the Minister for Justice and Equality and stating that, to the best of the officer's knowledge and belief, the person has not ceased to be an Irish citizen,

shall be evidence that the person was an Irish citizen on the date on which the offence concerned is alleged to have been committed, unless the contrary is shown.

(2) A document purporting to be a certificate under *paragraph (a)* or *(b)* of *subsection (1)* is deemed, unless the contrary is shown—

(*a*) to be such a certificate,

(*b*) to have been signed by the person purporting to have signed it.

Double jeopardy.

6.— A person who has been acquitted or convicted of an offence in a place outside the State shall not be proceeded against for an offence under this Act consisting of the act that constituted the offence of which the person has been acquitted or convicted.

Presumption relating to conduct referred to in *section 2(1)* (including as applied by *section 3*).

7.— In proceedings for an offence under this Act, where a person has developed, produced or used, or attempted to develop, produce or use, a microbial or other biological agent, or toxin (whatever its origin or method of production), of such a type and in such a quantity that it is reasonable to conclude that the person did so knowingly for a hostile purpose, the person is presumed to have done so knowingly for such a purpose unless the court or jury, as the case may be, is satisfied, having regard to the whole of the evidence, that there is a reasonable doubt that the person did so knowingly for such a purpose.

Presumption relating to conduct referred to in *section 2(2)* (including as applied by *section 3*).

8.— In proceedings for an offence under this Act, where a person has stockpiled, acquired, possessed or retained or transferred to another person, or attempted to stockpile, acquire, possess or retain or transfer to another person, a microbial or other biological agent, or toxin (whatever its origin or method of production), of such a type and in such a quantity that it is reasonable to conclude that it has been developed or produced or is intended to be used for a hostile purpose—

(*a*) the agent or toxin is presumed to have been so developed or produced or to have been so intended, and

(*b*) the person is presumed to have known or been reckless as to whether or not it has been so developed or produced or was so intended,

unless the court or jury, as the case may be, is satisfied, having regard to the whole of the evidence, that there is a reasonable doubt that the agent or toxin was so developed or produced or so intended or the person so knew or was so reckless.

Liability for offences by bodies corporate.

9.— (1) Where an offence under this Act is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Forfeiture on conviction.

10.— Where a person is convicted of an offence under this Act, the court by which he or she is convicted may order any thing used for the purposes of, or in connection with, the commission of the offence to be forfeited to the State, and any thing so forfeited shall be disposed of as the Minister may direct.

Forfeiture on application to District Court.

11.— (1) A member of the Garda Síochána not below the rank of superintendent may apply to a judge of the District Court for an order (in this section called a "forfeiture order") for the forfeiture to the State of any microbial or other biological agent, or any toxin (whatever its origin or method of production) or other thing, on the grounds that possession of the agent, toxin or other thing in the circumstances in which it was found is prohibited under this Act.

(2) A member of the Garda Síochána may make an application under *subsection (1)*, in relation to a microbial or other biological agent, or toxin or other thing, whether or not—

(*a*) a person has been convicted of or charged with an offence under this Act in relation to the agent, toxin or other thing, or

(*b*) the owner or person who has the right to possession of the agent, toxin or other thing is within the jurisdiction of the State or, after reasonable inquiry, can be found.

(3) An application under *subsection (1)*, in relation to a microbial or other biological agent, or toxin or other thing, shall be made to a judge of the District Court assigned to the district court district in which the agent, toxin or other thing is located.

(4) Any person aggrieved by a forfeiture order, or by a decision of the District Court not to make such an order, may appeal against that order or decision to the Circuit Court in whose circuit the order has been made or refused.

(5) A forfeiture order may contain such provisions as appear to the judge of the District Court making the order to be appropriate for delaying the coming into force of the order (including provisions relating to the custody and safe storage of the microbial or other biological agent, or toxin or other thing, concerned) pending the making and determination of any appeal under *subsection (4)*.

(6) A thing that is forfeited under this section may be disposed of as the Minister may direct.

Forfeiture — fixtures.

12.— A thing may be forfeited under *section 10* or *11* notwithstanding that it is affixed to land, and a member of the Garda Síochána may sever the thing from the land using such reasonable force and assistance as is necessary to do so.

Amendment of Bail Act 1997.

13.— The schedule to the Bail Act 1997 is amended by the insertion of the following paragraph after paragraph 36 (inserted by section 23 of the Criminal Justice (Psychoactive Substances) Act 2010):

"*Offences relating to biological weapons*

37. An offence under *section 2* or *3* of the *Biological Weapons Act 2011*.".

Expenses of Minister.

14.— 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.

Short title.

15.— This Act may be cited as the Biological Weapons Act 2011.

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About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found in the Legislation Directory at www.irishstatutebook.ie.