

CHEMICAL WEAPONS CONVENTION BILL 2004

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An Act to implement the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, and to provide for other matters connected therewith.

WHEREAS the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction was signed in Paris on 13 January 1993:

AND WHEREAS Malaysia deposited her instrument of ratification on 20 April 2000 and therefore in accordance with Article XXI of the Convention, the said Convention entered into force as far as Malaysia is concerned on 20 May 2000:

NOW THEREFORE IT IS ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1.(1) This Act may be cited as the Chemical Weapons Convention Act 2004.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Application of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction

2. The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction shall have the force of law in Malaysia and for that purpose be construed in accordance with the provisions of this Act.

Interpretation

3. In this Act, unless the context otherwise requires —

"riot control agent" means any chemical not listed in Schedule 1, 2 or 3 which can produce rapidly in humans sensory irritations or disabling physical effects which disappear within a short time following termination of exposure;

"this Act" includes any subsidiary legislation made under this Act;

"member" means any member of the National Authority appointed under subsection 6(2);

"discrete organic chemical" means any chemical belonging to the class of chemical compounds consisting of all compounds of carbon, except for its oxides, sulfides and metal carbonates, identifiable by chemical name, by structural formula, if known, and Chemical Abstracts Service registry number, if assigned;

"toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals, and includes precursors of toxic chemicals;

"prescribed" means prescribed by the Minister by regulations;

"International Inspector" means a person who holds a certificate issued by the Minister under subsection 38(2);

"National Inspector" means a person who is appointed by the Minister under subsection 5(1);

"facility" means any industrial site which comprises any of the following:

- (a) any works or factory ("plant site") which is the local integration of one or more plants with any intermediate administrative levels, which are under one operational control, and includes common infrastructure, such as—
 - (i) administration and other offices;
 - (ii) repair and maintenance shops;
 - (iii) medical centres;
 - (iv) utilities;
 - (v) central analytical laboratories;
 - (vi) research and development laboratories;
 - (vii) central effluent and waste treatment areas; and
 - (viii) warehouse storage areas;
- (b) any production facility or workshop ("plant") which is a relatively self-contained area, structure or building containing one or more units with auxiliary and associated infrastructure, such as —
 - (i) a small administrative section;
 - (ii) storage or handling areas for feedstock and products;
 - (iii) an effluent or waste handling or treatment area;
 - (iv) a control or analytical laboratory;
 - (v) a first aid service section or a related medical section;
and
 - (vi) records associated with the movement into, around and from the site, of declared chemicals and feedstock or products formed from them, as appropriate;
- (c) any production unit or process unit ("unit") which is the combination of items of equipment, including vessels and vessel set up, necessary for the production, processing or consumption of a chemical;

"Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction;

"Minister", unless otherwise expressly stated, means the Minister charged with the responsibility for foreign affairs;

"observer" means a representative of a requesting State Party to the Convention or a third State Party to the Convention present in Malaysia to observe a challenge inspection;

"challenge inspection" means the inspection of any facility or location in Malaysia or in any other place under the jurisdiction or control of Malaysia requested by another State Party pursuant to paragraphs 8 to 25 of Article IX of the Convention;

"conveyance" includes any ship, train, vehicle and aircraft and any other means of transport by which persons or goods can be carried;

"Chairman" means the Chairman of the National Authority as specified under paragraph 6(2)(a);

"Organization" means the Organization for the Prohibition of Chemical Weapons established pursuant to Article VIII of the Convention;

"National Authority" means the National Authority established under subsection 6(1);

"precursor" means 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 multi-component chemical system;

"chemical weapon" means the following, together or separately:

- (a) toxic chemicals, except where intended for purposes not prohibited under the Convention as long as the types and quantities are consistent with such purposes;
- (b) munitions and devices specifically designed to cause death or other harm through the toxic properties of the toxic chemicals specified in paragraph (a) which would be released as a result of the employment of such munitions and devices;

- (c) any equipment specifically designed for use directly in connection with the employment of the munitions and devices specified in paragraph (b);

"purposes not prohibited under the Convention" means —

- (a) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
- (b) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;
- (c) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare;
- (d) law enforcement, including domestic riot control purposes.

Prevailing law

4. (1) The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other written law relating to chemical weapons, riot control agents, toxic chemicals intended for purposes which are not prohibited, and discrete organic chemicals.

(2) In the event of any conflict or inconsistency between the provisions of this Act and those of any other written law pertaining to chemical weapons, riot control agents, toxic chemicals intended for purposes which are not prohibited, and discrete organic chemicals, the provisions of this Act shall prevail and the conflicting or inconsistent provisions of such other written law shall, to the extent of the conflict or inconsistency, be deemed to be superseded.

National Inspector

5. (1) The Minister may appoint, from amongst public officers, National Inspectors and other officers as may be necessary for the purposes of this Act.

(2) The National Inspectors shall, subject to the general direction and control of the Minister, perform the functions and duties imposed upon them by this Act and may exercise the powers conferred upon them under this Act.

(3) The Minister shall issue to each of the National Inspectors and other officers appointed under subsection (1) an authority card for the purposes of the performance of his functions and duties and the exercise of his powers under this Act.

(4) All National Inspectors and other officers appointed under subsection (1) are deemed to be public servants within the meaning of the Penal Code [*Act 574*].

PART II

THE NATIONAL AUTHORITY

The National Authority

6. (1) There shall be established for the purposes of this Act a body to be known as the National Authority.

(2) The National Authority shall consist of the following members:

- (a) a Chairman, to be appointed by the Minister;
- (b) a representative of the Ministry responsible for foreign affairs, to be appointed by the Minister;
- (c) a representative of the Ministry responsible for defense, to be appointed by the Minister charged with the responsibility for defense;
- (d) a representative of the Ministry responsible for internal security, to be appointed by the Minister charged with the responsibility for internal security;
- (e) a representative of the Ministry responsible for international trade, to be appointed by the Minister charged with the responsibility for international trade;
- (f) a representative of the Ministry responsible for technology, to be appointed by the Minister charged with the responsibility for technology;
- (g) a representative of the Ministry responsible for the environment, to be appointed by the Minister charged with the responsibility for the environment;
- (h) the Director of the Pharmaceutical Services Division of the Ministry responsible for health, or his representative;

- (i) the Chairman of the Pesticides Board or his representative;
- (j) the Director General of Environmental Quality, or his representative;
- (k) the Inspector General of Police, or his representative; (l) the Director General of Customs, or his representative; (m) the Director General of Chemistry, or his representative;
- (n) the Director General of Occupational Safety and Health, or his representative; and
- (o) the Director General of Science and Technology Research Institute for Defence, or his representative.

(3) The relevant Minister may, in respect of each member appointed under paragraphs (2)(b) to (g), appoint an alternate member to attend meetings of the National Authority when the member is for any reason unable to attend.

Functions and powers of the National Authority

7. (1) The National Authority shall perform the function of monitoring and ensuring the implementation of Malaysia's obligations under the Convention, including —

- (a) ensuring the effective implementation of this Act;
- (b) facilitating inspections under the Convention, including co-operating with International Inspectors in challenge inspections;
- (c) gathering the data to be reported in the annual declarations to the Organization;
- (d) providing the Organization and other State Parties with relevant information in fulfillment of Malaysia's obligations under the Convention;
- (e) regulating and supervising issues or matters relating to the Convention, including the domestic implementation of the Convention;
- (f) issuing authorization in respect of activities relating to toxic chemicals listed in Schedule 1;

- (g) issuing directions to any National Inspector for purposes of enforcement and effective implementation of this Act;
- (h) advising the Minister generally on issues or matters relating to the Convention;
- (i) levying any fees, as may be prescribed by the Minister, in respect of services rendered by the National Authority;
- (j) doing anything incidental or conducive to the performance of any of the functions referred to in paragraphs (a) to (i).

(2) The National Authority shall have all such powers as may be necessary for, or in connection with, or reasonably incidental to, the performance of its functions under this Act.

Committees of the National Authority

8. (1) The National Authority may from time to time appoint such committees as it may deem necessary or expedient to assist it in the performance of its functions and exercise of its powers under this Act.

(2) Subject to this Act and any rules made under section 17, each of such committees may regulate its own procedure.

(3) Members of such committees may be paid such allowances and other expenses in connection with the work of the committees as the Minister may from time to time determine with the concurrence of the Minister of Finance.

Delegation of functions and powers

9. (1) The National Authority may, subject to such conditions, limitations or restrictions as it deems fit to impose, delegate any of its functions and powers, except the power to delegate and power to make rules under section 17, to—

- (a) the Chairman;
- (b) any member of the National Authority; and
- (c) a committee,

(2) Any person or committee delegated with such functions and powers shall observe and have regard to all conditions and restrictions imposed by the National Authority and all requirements, procedures and matters specified by the National Authority.

(3) Any function or power delegated under this section shall be performed and exercised in the name and on behalf of the National Authority.

(4) The delegation under this section shall not preclude the National Authority itself from performing or exercising at any time any of the delegated functions and powers.

Power of the Minister to issue directions

10. The Minister may from time to time give the National Authority directions not inconsistent with this Act as to the performance of the functions and powers of the National Authority and the National Authority shall give effect to such directions.

Chairman of the National Authority

11. (1) The Chairman shall hold office for a term not exceeding two years and is eligible for reappointment upon expiry of his term of office.

(2) The Chairman may, at any time, resign his office by giving three months written notice to the Minister.

(3) The Chairman may be removed—

- (a) if his conduct, whether in connection with his duties as a Chairman of the National Authority or otherwise, has been such as to bring discredit to the National Authority;
- (b) if he has become incapable of properly carrying out his duties as a Chairman of the National Authority;
- (c) if there has been proved against him, or he has been convicted on, a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under a law relating to corruption;

- (iii) an offence under this Act; or
- (iv) any other offence punishable with imprisonment for more than two years;
- (d) if he is adjudicated a bankrupt;
- (e) if he has been found or declared to be of unsound mind or has otherwise become incapable of managing his affairs; or
- (f) if he absents himself from three consecutive meetings of the National Authority without obtaining leave in writing from the Minister.

(4) If the Chairman is appointed otherwise than from amongst the members of the public services, the Minister may authorize the payment of such allowances as he deems appropriate.

Temporary Chairman

- 12.** (1) The Minister may appoint any member of the National Authority to act as temporary Chairman during any period when
- (a) the Chairman is unable for any reason to perform his duties and functions or exercise his powers under this Act; or
 - (b) the office of Chairman is vacant.

(2) Any member appointed to act as temporary Chairman during any period under this section may accordingly perform the duties and functions and exercise the powers of the Chairman during such period.

Meetings of the National Authority

13. (1) The National Authority shall meet as often as may be necessary for the performance of its functions at such time and at such places as the Chairman may appoint.

(2) Seven members including the Chairman shall form the quorum of a meeting of the National Authority

(3) The Chairman shall preside over all its meetings.

(4) At any meeting of the National Authority, the Chairman shall have a deliberative vote and shall, in the event of an equality of votes, have a casting vote.

The National Authority may invite others to meetings

14. (1) The National Authority may invite any person to attend any meeting or deliberation of the National Authority for the purpose of advising it on any matter under discussion.

(2) Any person attending the meeting or deliberation under subsection (1) shall have no right to vote.

Secretary to the National Authority

15. The Minister shall appoint a public officer to be the Secretary to the National Authority.

Provision of facilities by Ministry

16. The Ministry responsible for the National Authority shall provide the National Authority with such staff, funds and other facilities as are necessary to enable it to carry out its functions.

Rules for regulating meetings and proceedings

17. Subject to this Act, the National Authority may make rules for regulating its meetings and proceedings, and those of committees appointed under section 8.

PART III

PROHIBITION OF CHEMICAL WEAPONS AND RIOT
CONTROL AGENTS

Prohibition

18. (1) No person shall—

(a) develop, produce, acquire, stockpile or retain any chemical weapon;

- (b) transfer, directly or indirectly, any chemical weapon to another person;
- (c) have in his possession, custody or control any chemical weapon;
- (d) use any chemical weapon;
- (e) engage in any unlawful military preparations to use a chemical weapon; or
- (f) assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under the Convention.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be punished with imprisonment for a term not exceeding thirty years or a fine not exceeding one million ringgit or both.

Riot control agents

19. (1) Save for the purpose of maintaining and preserving public order, no person shall use a riot control agent as a method of warfare.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be punished with imprisonment for a term not exceeding thirty years or a fine not exceeding one million ringgit or both.

PART IV

TOXIC CHEMICALS

Chapter 1 - Permitted Activities

Activities for purposes not prohibited under the Convention

20. Any person may, subject to the provisions of this Act, develop, produce, acquire, retain, transfer, possess or use toxic chemicals as listed in Schedules 1, 2 and 3 for purposes not prohibited under the Convention.

*Chapter 2 - Regime For Toxic Chemicals Listed In
Schedule 1*

Prohibition and exceptions

21. (1) Subject to the provisions of this Chapter, no person shall produce, acquire, retain, transfer or use toxic chemicals listed under Schedule 1 unless —

- (a) such production, acquisition, retention, transfer or use is for research, medical, pharmaceutical or protective purposes;
- (b) the types and quantities of the toxic chemicals are strictly limited to those which can be justified for such purposes;
- (c) the aggregate amount of such chemicals at any given time for such purposes is equal to or less than 1 tonne; and
- (d) such production, acquisition, retention or use is authorized by the National Authority.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one hundred and fifty thousand ringgit or to imprisonment for a term not exceeding seven years or to both.

(3) For the purposes of this Chapter, "transfer" includes import, export, or any movement of any amount of a toxic chemical listed in Schedule 1 outside the geographical boundary of a facility in Malaysia to another destination in Malaysia, or any movement as such between two divisions of one company or a sale from one company to another.

Existing activity

22. (1) For purposes of section 21, any person engaged in the production, acquisition, retention, transfer or use of toxic chemicals listed in Schedule 1 immediately before the commencement of this Act and intends to continue with that activity on and after such commencement shall, not later than three months from the date of commencement of this Act, apply to the National Authority for an authorization under this Act.

(2) Pending the decision of the National Authority on the application under subsection (1), the applicant shall be deemed to be authorized under this Act and no action shall be taken against him for engaging in such activity without an authorization.

(3) Where an authorization is issued by the National Authority under section 24 pursuant to an application made under subsection (1), the applicant shall immediately take the necessary action to comply with any conditions imposed with the authorization.

(4) Where the authorization is refused by the National Authority under section 24, the applicant referred to in subsection (2) shall cease to be deemed to be authorized under that subsection from the date he is notified of the decision of the National Authority or, if there is an appeal under section 27, the date of the decision of the Minister on that appeal.

Application for authorization

23. (1) An application for authorization under subsection 21(1) shall be made in the prescribed form to the National Authority and shall be accompanied by such documents or information as may be prescribed.

(2) The National Authority may, at any time after receiving the application under subsection (1) and before it is determined, by a written notice, require the applicant to provide such additional documents or information as the National Authority deems necessary.

(3) Where any additional documents or information required under subsection (3) is not provided by the applicant within the time specified in the notice or any extended time granted by the National Authority, the application shall be deemed to be withdrawn and shall not be further proceeded with, but without prejudice to a fresh application being made by the applicant.

(4) An application under this section may be withdrawn at any time before the authorization applied for is granted or refused.

Power to issue or refuse authorization

24. (1) Upon receipt of an application together with the documents and information required under section 23, the National Authority

may issue an authorization in the prescribed form or may refuse to issue an authorization without assigning any reasons for the refusal.

(2) If the National Authority issues an authorization under subsection (1), the National Authority shall impose such conditions as the National Authority deems fit.

(3) Where the National Authority refuses to issue an authorization, the National Authority shall immediately notify the applicant in writing of its refusal.

(4) The authorization, unless sooner withdrawn, shall be valid for such period as may be specified in the authorization.

Withdrawal of authorization

25. (1) The National Authority may withdraw an authorization issued under section 24 if it is satisfied that—

- (a) the person to whom it was issued has failed to comply with any obligation imposed upon him under this Act;
- (b) such person has contravened any of the conditions of the authorization, or any provision of this Act, regardless of the fact that there has been no prosecution for an offence in respect of such contravention;
- (c) such person has been convicted of an offence under this Act; or
- (d) such person has, either in connection with the application for the authorization, or at any time after the issuance of the authorization, provided false or misleading or inaccurate information to the National Authority.

(2) The National Authority shall issue a notice in writing of such withdrawal to the person to whom the authorization was issued.

(3) The withdrawal of an authorization issued to a person shall take effect-

- (a) where there is no appeal against such withdrawal, on the expiration of fourteen days from the date on which the notice of withdrawal is served on such person; or

- (b) where there is an appeal against such withdrawal, when the withdrawal is confirmed by the Minister.

Appeal against the decision of the National Authority

26. (1) Any person who is aggrieved by any decision of the National Authority may appeal to the Minister in the prescribed manner within 30 days from the date the decision is communicated to such person.

(2) The Minister's decision on an appeal under subsection (1) shall be final.

Transfer

27. (1) Where any person is authorized to transfer a toxic chemical listed in Schedule 1, that person shall not—

- (a) retransfer the toxic chemical to a third State; or
(b) transfer the toxic chemical to any State not Party to the Convention.

(2) Any person who contravenes paragraph (a) or (b) commits an offence and shall on conviction be liable to a fine not exceeding one hundred and fifty thousand ringgit or to imprisonment for a term not exceeding seven years or to both.

Declaration

28. (1) Any person who is authorized to produce, acquire, retain, transfer or use a toxic chemical listed in Schedule 1 in an amount which is more than such threshold amount as may be prescribed, shall make the following periodic declarations to the National Authority in such form and at such time as may be prescribed:

- (a) an annual declaration on activities in the previous calendar year; and
(b) an annual declaration on anticipated activities for the following calendar year.

(2) The declaration under subsection (1) shall be in relation to—

- (a) the identity of the facility;
- (b) the name of toxic chemicals including the structural formula of the toxic chemicals and Chemical Abstracts Service registry number (if assigned);
- (c) the purposes for which the toxic chemicals are used;
- (d) the quantity of the toxic chemicals for the purposes for which the toxic chemicals are used; and
- (e) such other matters, relevant to a declaration, as may be prescribed.

(3) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Changes to a facility

29. (1) Any person who has made a declaration under section 28 in relation to a facility shall, if there is any change at such facility, submit information in relation to such change and such other information as may be prescribed to the National Authority.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Maintenance of documents and register

30. (1) Any person who is authorized to produce, acquire, retain, transfer or use a toxic chemical listed in Schedule 1 shall —

- (a) maintain a register in such form as may be prescribed;
and
- (b) keep for a prescribed period all documents,

concerning the operation of his facility in relation to the toxic chemicals.

(2) The register shall —

- (a) be kept solely for the purpose of entering such records and information as may be prescribed;
- (b) be kept up to date and in good order and condition; and
- (c) be kept for the prescribed period.

(3) The person mentioned in subsection (1) shall make the register available for inspection as and when required by the National Authority, any National Inspector, any police officer not below the rank of an Inspector, and any Senior Officer of Customs.

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

*Chapter 3 - Regime For Toxic Chemicals Listed In
Schedules 2 And 3*

Declaration

31. (1) Any person who —

- (a) produces, processes, consumes, exports or imports a toxic chemical listed in Schedule 2 in an amount which is more than such threshold amount as may be prescribed; or
- (b) produces, imports or exports a toxic chemical listed in Schedule 3 in an amount which is more than such threshold amount as may be prescribed,

shall make the following periodic declarations to the National Authority in such form and at such time as may be prescribed:

- (aa) an annual declaration on activities in the previous calendar year; and
- (bb) an annual declaration on anticipated activities for the following calendar year.

(2) The declaration under subsection (1) shall be in relation to—

- (a) the identity of the facility;
- (b) the name of toxic chemicals including the structural formula of the toxic chemicals and Chemical Abstracts Service registry number (if assigned);
- (c) the purposes for which the toxic chemicals are used;
- (d) the quantity of the toxic chemicals for the purposes for which the toxic chemicals are used; and
- (e) such other matters, relevant to a declaration, as may be prescribed.

(3) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Export or import of toxic chemicals in Schedule 2

32. (1) Any person who engages in any of the activities specified in paragraph 31(l)(a) shall not export or import toxic chemicals to any State not Party to the Convention.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Export or import of toxic chemicals in Schedule 3

33. (1) Any person who engages in any of the activities specified in paragraph 31(l)(b) shall not export or import toxic chemicals to any State not Party to the Convention without an end-user certificate issued in the prescribed form by the National Authority.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Changes to a facility

34. (1) Any person who has made a declaration under section 31 in relation to a facility shall, if there is any change at such facility, submit information in relation to such change and such other information as may be prescribed to the National Authority.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Maintenance of documents and register

35. (1) Any person who engages in any of the activities specified in paragraph 3\{l}(a) or (b), as the case may be, shall—

(a) maintain a register in such form as may be prescribed;
and

(b) keep for a prescribed period all documents,

concerning the operation of his facility in relation to the toxic chemicals.

(2) The register shall—

(a) be kept solely for the purpose of entering such records and information as may be prescribed;

(b) be kept up to date and in good order and condition; and

(c) be kept for the prescribed period.

(3) The person mentioned in subsection (1) shall make the register available for inspection as and when required by the National Authority, any National Inspector, any police officer not below the rank of an Inspector, and any Senior Officer of Customs.

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Chapter 4 - Regime For Discrete Organic Chemicals

Declaration

36. (1) Any person who engages in the production by synthesis of discrete organic chemicals in an amount which is more than such threshold amount as may be prescribed shall make the following periodic declarations to the National Authority in such form and at such time as may be prescribed:

- (a) an annual declaration on activities in the previous calendar year; and
- (b) an annual declaration on anticipated activities for the following calendar year.

(2) The declaration under subsection (1) shall be in relation to—

- (a) the identity of the facility;
- (b) the names of the discrete organic chemicals;
- (c) the quantity of the discrete organic chemicals used; and
- (d) such other matters, relevant to a declaration, as may be prescribed.

(3) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Maintenance of documents and register

37. (1) Any person who engages in any of the activities specified in section 36 shall—

- (a) maintain a register in such form as may be prescribed; and
- (b) keep for a prescribed period all documents,

concerning the operation of his facility in relation to the discrete organic chemicals.

- (2) The register shall —
- (b) be kept solely for the purpose of entering such records and information as may be prescribed ;
 - (c) be kept up to date and in good order and condition; and
 - (d) be kept for the prescribed period.

(3) The person mentioned in subsection (1) shall make the register available for inspection as and when required by the National Authority, any National Inspector, any police officer not below the rank of Inspector, and any Senior Officer of Customs.

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

PART V

INTERNATIONAL INSPECTION

International Inspector

38. (1) The Minister may issue to any person who is a member of an inspection team of the Technical Secretariat of the Organization a certificate to be an International Inspector for the purposes of this Act.

(2) A certificate issued to a person under subsection (1) shall contain the following particulars:

- (a) the identity of the person including the person's name, status and authority to conduct inspection in Malaysia;
- (b) the privileges and immunities applicable to the person; and
- (c) any other information and any condition applicable to the person's inspection activities in Malaysia as the Minister deems fit.

Inspection

39. (1) Subject to this Act, an International Inspector may, at any reasonable time and consistent with the provisions of this Act and the Convention—

- (a) enter any facility in Malaysia—
 - (i) in respect of which declaration has been made under Part IV;
 - (ii) that is subject to an on-site challenge inspection referred to in paragraph 8 of Article IX of the Convention; or
 - (iii) in respect of which an investigation under paragraph 9 of Article X of the Convention has been initiated;
- (b) carry out inspection at the facility in a manner consistent with the provisions of this Act and the Convention; and
- (c) install, use and maintain, where appropriate, in respect of any such facility monitoring instruments, systems and seals in a manner consistent with the provisions of this Act and the Convention.

(2) Any International Inspector shall, upon being requested by the owner or person in charge of a facility to be inspected by the International Inspector, produce the certificate to that person for verification of his identity.

(3) While carrying out a challenge inspection, an International Inspector may be accompanied by an observer for the purpose of giving effect to paragraph 12 of Article IX of the Convention.

Powers of National Authority members in relation to inspection by International Inspector

40. (1) An inspection under section 39 shall not be carried out unless the International Inspector is accompanied by a member of the National Authority or a National Inspector.

(2) Any member of the National Authority or a National Inspector may direct the owner or any person in charge of the facility being inspected to—

- (a) provide the International Inspector with access to any area, container or thing at the facility being inspected in a manner consistent with the provisions of this Act and the Convention;
- (b) permit the International Inspector to examine anything at the facility being inspected;
- (c) permit the International Inspector to make copies of any information contained in the records, documents or computerized data kept or used in relation to the facility being inspected and to remove such copies from that facility;
- (d) permit the International Inspector to take photographs of anything in the facility being inspected;
- (e) permit the International Inspector to interview any person at the facility being inspected; and
- (f) permit the International Inspector to take samples for analysis in the facility, conveyance or any other place being inspected.

(3) Any person who contravenes subsection (2) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Warrant for inspection

41. (1) Where the consent of the owner or person in charge of any facility to enter such facility for the purposes referred to in section 39 cannot be obtained, any member of the National Authority or a National Inspector may apply for a warrant on behalf of the International Inspector.

(2) A Magistrate to whom an application for a warrant is made under this subsection may, if he is satisfied by information on oath

affirmed by any member of the National Authority or a National Inspector that—

- (a) the conditions for entry described in section 39 have been met in relation to that facility;
- (b) entry to the facility is necessary for any purpose relating to the administration of this Act; and
- (c) entry to the facility has been refused,

issue a warrant authorizing the member of the National Authority or a National Inspector and the named International Inspector to enter the facility for the purposes of the inspection referred to in section 39, subject to such conditions as may be specified in the warrant.

Use of force

42. Where force is required to enter any facility specified in a warrant issued under section 41, the person executing the warrant may request for the assistance of a police officer to use such force as is reasonable in the circumstances.

PART VI

ENFORCEMENT

Power of enforcement

43. (1) A National Inspector, a police officer not below the rank of Inspector or a Senior Officer of Customs may exercise all the powers of enforcement under this Act.

(2) Every National Inspector, police officer not below the rank of Inspector or Senior Officer of Customs, when acting against any person under this Act, shall declare his office and shall on demand produce to the person against whom he is acting any authority card which has been issued to the National Inspector or officer.

Power of investigation

44. (1) Any National Inspector, police officer not below the rank of Inspector or Senior Officer of Customs shall have the power to investigate any offence under this Act.

(2) For the purpose of subsection (1), the Criminal Procedure Code [*Act 593*] shall apply and the National Inspector, a police officer not below the rank of Inspector or a Senior Officer of Customs shall have all the powers as provided for under the Criminal Procedure Code.

Search and seizure without warrant

45. (1) In addition to the powers as provided for under the Criminal Procedure Code, where a National Inspector, a police officer not below the rank of Inspector or a Senior Officer of Customs has reasonable grounds for believing that by reason of the delay in obtaining a search warrant the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the National Inspector, police officer not below the rank of Inspector or Senior Officer of Customs may enter any facility, conveyance or other place and seize any chemical weapon, riot control agent or toxic chemical listed in Schedule 1, 2 or 3, or any receptacle, package, conveyance or other article in which the chemical weapon, riot control agent or toxic chemical is stored, kept or found, record, book, account, document or computerized data.

(2) Except as provided in subsection (3), where any chemical weapon, riot control agent or toxic chemical listed in Schedule 1, 2 or 3, and any receptacle, package, conveyance or other article in which the chemical weapon, riot control agent or toxic chemical is stored, kept or found, record, book, account, document or computerized data are seized under subsection (1), the seizing officer shall prepare a list of the things seized and immediately deliver a copy signed by him to the owner or person in charge of the facility, conveyance or other place which has been searched, or to such owner's or person's agent or servant, at that facility, conveyance or other place.

(3) Where the facility, conveyance or other place is unoccupied, the seizing officer shall whenever possible post a list of the things seized conspicuously at that facility, conveyance or other place.

Access to computerized data

46. (1) A National Inspector, a police officer not below the rank of Inspector or a Senior Officer of Customs conducting a search under this Act shall be given access to computerized data whether stored in a computer or otherwise.

(2) In this section, "access" includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of the computerized data.

Forfeiture of chemical weapons, etc.

47. (1) All chemical weapons, riot control agents and toxic chemicals listed in Schedules 1,2 and 3, together with any receptacle, package, conveyance or other article in which the chemical weapons, riot control agents and toxic chemicals are stored, kept or found, record, book, account, document or computerized data seized in the exercise of any power conferred under this Act are liable to forfeiture.

(2) The court trying any person accused of an offence under this Act may at the conclusion of the trial, whether he is convicted or not, order that the chemical weapons, riot control agents and toxic chemicals listed in Schedules 1, 2 and 3, together with any receptacle, package, conveyance or other article in which the chemical weapons, riot control agents and toxic chemicals are stored, kept or found, record, book, account, document or computerized data seized from that person be destroyed.

(3) Where there is no prosecution with regard to any chemical weapons, riot control agents and toxic chemicals listed in Schedules 1, 2 and 3, the chemical weapons, riot control agents and toxic chemicals listed in Schedules 1,2 and 3, together with any receptacle, package, conveyance or other article in which the chemical weapons, riot control agents and toxic chemicals are stored, kept or found, record, book, account, document or computerized data shall be taken and deemed to be forfeited at the expiration of one calendar month from the date they were seized unless a claim is made before that date in the manner set out in subsections (4), (5) and (6).

(4) A claim under subsection (3) can only be made in respect of toxic chemicals listed in Schedules 1, 2 and 3, records, books, accounts, documents or computerized data.

(5) Any person asserting that he is the owner of any toxic chemicals listed in Schedules 1, 2 and 3, books, documents or computerized data seized under this Act and that the toxic chemicals, records, books, accounts, documents or computerized data are not liable to forfeiture may personally or by his agent authorized in writing by him, give notice to the seizing officer of his claim.

(6) On receipt of a notice under subsection (5), the seizing officer shall refer the matter to the Sessions Court for decision.

(7) The court to which the matter is referred shall issue a summons requiring the person asserting that he is the owner of the toxic chemicals listed in Schedules 1, 2 and 3, records, books, accounts, documents or computerized data and the person from whom they were seized to appear before the court and upon their appearance or default to appear, due service of the summons being proved, the court shall proceed to the examination of the matter, and on proof that an offence under this Act has been committed and that such toxic chemicals, records, books, accounts, documents or computerized data were the subject-matter of or were used in the commission of such offence, shall order the toxic chemicals, books, documents or computerized data to be forfeited or may, in the absence of such proof, order the release of such toxic chemicals, books, documents or computerized data to the person entitled to them.

(8) Any chemical weapon, riot control agent or toxic chemical listed in Schedule 1, 2 or 3, together with any receptacle, package, conveyance or other article in which the chemical weapon, riot control agent or toxic chemical is stored, kept or found, record, book, account, document or computerized data forfeited or deemed to be forfeited shall be delivered to the National Authority who shall dispose of it in any manner it deems fit.

Cost of holding chemical weapons, *etc.*, seized

48. Where any chemical weapon, riot control agent or toxic chemical listed in Schedule 1, 2 or 3, or any receptacle, package, conveyance or other article in which the chemical weapon, riot control agent or toxic chemical is stored, kept or found, record, book, account, document or computerized data seized under this Act is held in the custody of the Government pending completion of any proceedings

in respect of an offence under this Act, the cost of holding such thing in custody shall, in the event of any person being found guilty of an offence, be a debt due to the Government by such person and shall be recoverable accordingly.

No costs or damages arising from seizure to be recoverable

49. No person shall, in any proceedings before any court in respect of any chemical weapon, riot control agent or toxic chemical listed in Schedule 1, 2 or 3, or any receptacle, package, conveyance or other article in which the chemical weapon, riot control agent or toxic chemical is stored, kept or found, record, book, account, document or computerized data seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Protection of informers

50. (1) Except as provided in this section, no witness in any civil or criminal proceedings shall be obliged or permitted to disclose the name or address of any informer or the substance and nature of the information received from him or to state any matter which may lead to his discovery.

(2) If any record, book, account, document or computerized data which is in evidence or is liable to inspection in any civil or criminal proceedings contains any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such entries to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If in a trial for any offence under this Act the court after full inquiry into the case believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the court is of the opinion that justice cannot be fully done between the parties to the proceeding without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer.

PART VII

MISCELLANEOUS

Notice for disclosure of information

51. (1) The National Authority may send a notice to any person whom the National Authority believes on reasonable grounds has information or documents relevant to the enforcement of this Act, requesting the person to provide the information or documents to the National Authority.

(2) A person who receives a notice referred to in subsection (1), shall provide the requested information and documents to the National Authority in the prescribed form and within the time specified in the notice.

(3) Any person who contravenes subsection (2), commits an offence.

Information is privileged and confidential

52. (1) Any information and document obtained pursuant to this Act or the Convention are privileged and confidential.

(2) The information and documents in subsection (1) are not privileged or confidential if they are required to be disclosed or communicated for the purpose of national interest, national security or under any written law.

(3) No person in possession of privileged or confidential information or documents shall knowingly, without the written consent of the person from whom they were obtained, communicate them or allow them to be communicated to any person, or allow any person to have access to them, except—

- (a) for the purpose of the enforcement of this Act or of giving effect to the Convention; or
- (b) pursuant to an obligation of the Government of Malaysia under the Convention.

(4) Notwithstanding any other written laws, no person shall be required, in connection with any legal proceedings, to produce any statement or other record containing privileged or confidential information or documents, or to give evidence relating to them, unless the proceedings relate to the enforcement of this Act.

Protection of officers

53. No action or prosecution shall be brought, instituted or maintained in any court against the National Authority, a National Inspector, any officer duly appointed under this Act, a police officer or a Senior Officer of Customs for or on account of or in respect of any act ordered or done for the purpose of carrying into effect this Act if the act was done in good faith and that it was necessary for the purpose intended to be served thereby.

Institution of prosecution

54. No prosecution for or in relation to any offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

Obstruction

55. (1) No person shall obstruct, impede or interfere with any member of the National Authority, an International Inspector, a National Inspector, any officer duly appointed under this Act, a police officer or a Senior Officer of Customs in the performance of his functions under this Act.

(2) Any person who contravenes subsection (1), commits an offence.

Offences with respect to information

56. (1) Any person who submits false or misleading information in any application, report or other document for any purpose under this Act commits an offence.

(2) Any person who —

- (a) furnishes or causes to be furnished to any National Inspector, police officer not below the rank of Inspector or Senior Officer of Customs any false or misleading particular, information or statement in respect of any matter which such officer requires to be given under this Act;
- (b) refuses to answer or gives a false answer to any question put to him by any National Inspector, police officer not below the rank of Inspector or Senior Officer of Customs for the purpose of obtaining any particulars, information or statement required to be given under this Act; or
- (c) fails or refuses to produce any document as may be required by any National Inspector, police officer not below the rank of Inspector or Senior Officer of Customs,

commits an offence.

Power to amend Schedule

57. Where any amendment is made to the Convention pursuant to Article XV of the Convention, the Minister may, by order published in the *Gazette*, amend the Schedule in accordance with the amendment to the Convention.

General penalty

58. Any person who commits an offence under this Act for which no penalty is expressly provided, shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Offences by body corporate

59. Where any offence against any provision of this Act has been committed by a body corporate, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity, or was in any manner or to any extent

responsible for the management of any of the affairs of such body corporate, or was assisting in such management, shall also be guilty of that offence unless he proves that the offence was committed without his knowledge, consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

Offences by employee or agent

60. Where any person would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, such person shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his or of the employee of such agent, if such act, omission, neglect or default was committed by the person's employee in the course of his employment, or by the agent when acting on behalf of the person, or by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

Offences outside Malaysia

61. (1) Any person who does or omits to do, outside Malaysia, an act and the doing of that act or the omission of that act would, if done or omitted in Malaysia, be an offence under this Act, shall, if the person is a Malaysian citizen or a permanent resident, be deemed to have done that act or omitted to do that act in Malaysia.

(2) Any proceedings against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence was committed in Malaysia, shall be a bar to further proceedings against him under any written law relating to the extradition of persons in respect of the same offence outside Malaysia.

Regulations

62. (1) The Minister may make such regulations as may be necessary or expedient for giving full effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made —

- (a) to prescribe the procedures to be followed by members of the National Authority in exercising their functions under this Act;
- (b) to prescribe any forms for the purposes of this Act;
- (c) to prescribe on any information to be furnished and any declaration to be submitted for the purposes of this Act;
- (d) to prescribe the procedures for making application for authorization and the determination of questions in connection with the issuance and withdrawal of the authorization and the conditions to be attached to the authorization and the procedures in connection with appeals;
- (e) to prescribe the procedures for application of end-user certificate, and conditions to be attached to the end-user certificate;
- (f) to prescribe the fees to be paid under this Act and the manner for collecting and dealing with such fees;
- (g) to prescribe the form of register to be kept and maintained by the owner of the facility and information to be recorded in such register;
- (h) to provide for any matter which under this Act is required or permitted to be prescribed or which is necessary or expedient to be prescribed.

SCHEDULE 1

TOXIC CHEMICALS

(Chapters 1 and 2)

(Chemical Abstract Service
registry number)

A. Toxic chemicals (not including their precursors):

1. O-Alkyl (<C]0 **incl.** cycloalkyl) alkyl
(Me, Et, n-Pr or i-Pr)- phosphonofluoridates

e.g. Sarin:	O-Isopropyl methylphosphonofluoridate	(107-44-88)
Soman:	O-Pinacolyl methylphosphonofluoridate	(96-64-0)

(Chemical Abstract Service
registry number)

2. O-Alkyl (<C₁₀, incl. cycloalkyl) N,N-dialkyl
(Me, Et, n-Pr or i-Pr) phosphoramidocyanidates

e.g. Tabun: O-Ethyl N,N-dimethyl
phosphoramidocyanidate (77-81-6)
 3. O-Alkyl (H or <C₁₀, incl. cycloalkyl) S-2-dialkyl
(Me, Et, n-Pr or i-Pr)- aminoethyl alkyl
(Me, Et, n-Pr or i-Pr) phosphonothiolates and
corresponding alkylated or protonated salts

e.g. VX: O-Ethyl S-2-diisopropylaminoethyl
methyl phosphonothiolate (50782-69-9)
 4. Sulfur mustards

2-Chloroethylchloromethylsulfide (2625-76-5)
Mustard gas: Bis(2-chloroethyl)sulfide (505-60-2)
Bis(2-chloroethylthio)methane (63869-13-6)
Sesquimustard: 1, 2 Bis(2-chloroethylthio)ethane (3563-36-8)
,,3- Bis(2-chloroethylthio)-n-propane (63905-10-2)
,,4- Bis(2-chloroethylthio)-n-butane (142868-93-7)
,,5- Bis(2-chloroethylthio)-n-pentane (142868-94-8)
Bis(2-chloroethylthiomethyl)ether (63918-90-1)
O-Mustard: Bis(2-chloroethylthioethyl)ether (63918-89-8)
 5. Lewisites

Lewisite 1: 2-Chlorovinylchloroarsine (541-25-3)
Lewisite 2: Bis(2-chlorovinyl)chloroarsine (40334-69-8)
Lewisite 3: Tris(2-chlorovinyl)arsine (40334-70-1)
 6. Nitrogen mustards

HNI: Bis(2-chloroethyl)ethylamine (538-07-8)
HN2: Bis(2-chloroethyl)methylamine (51-75-2)
HN3: Tris(2-chloroethyl)amine (555-77-1)
 7. Saxitoxin (35523-89-8)
 8. Ricin (9009-86-3)
- B. Precursors:
9. Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides

e.g. DF: Methylphosphonyldifluoride (676-99-3)
 10. O-Alkyl (H or <C₇), incl. cycloalkyl) 0-2-dialkyl
(Me, Et, n-Pr or i-Pr)- aminoethyl alkyl
(Me, Et, n-Pr or i-Pr)- phosphonites and
corresponding alkylated or protonated salts

e.g. QL: O-Ethyl 0-2-diisopropylaminoethyl
methylphosphonite (57856-11-8)
 11. Chlorosarin: O-Isopropyl methylphosphonochloridate (1445-76-7)
 12. Chlorosoman: O-Pinacolyl methylphosphonochloridate (7040-57-5)

SCHEDULE 2

TOXIC CHEMICALS

(Chapters 1 and 3)

(Chemical Abstract Service
registry number)**A. Toxic chemicals (not including their precursors):**

1. Amiton: 0,0-Diethyl S-[2-(diethylamino)ethyl]
phosphorothiolate (78-53-5)
and corresponding alkylated or protonated salts
2. PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene (382-21-8)
3. BZ: 3-Quinuclidinyl benzilate (*) (6581-06-2)

B. Precursors:

4. Chemicals, except for those listed in Schedule 1,
containing a phosphorus atom to which is bonded one
methyl, ethyl or propyl (normal or iso) group but not
further carbon atoms,
e.g. Methylphosphonyl dichloride (676-97-1)
Dimethyl methylphosphonate (756-79-6)
Exemption: Fonofos: O-Ethyl S-phenyl
ethylphosphonothiothionate (944-22-9)
5. N,N- Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic
dihalides
6. Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl
(Me, Et, n-Pr or i-Pr)-phosphoramidates
7. Arsenic trichloride (7784-34-1)
8. 2,2-Diphenyl-2-hydroxyacetic acid (76-93-7)
9. Quinuclidin-3-ol (1619-34-7)
10. N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides
and corresponding protonated salts
11. N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and
corresponding protonated salts
Exemption: N,N-Dimethylaminoethanol and
corresponding protonated salts (108-01-0)
N,N-Diethylaminoethanol and
corresponding protonated salts (100-37-8)
12. N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane 2-thiols and
corresponding protonated salts
13. Thiodiglycol: Bis(2-hydroxyethyl)sulfide (111-48-8)
14. Pinacoly alcohol: 3,3-Dimethylbutan-2-ol (464-07-3)

SCHEDULE 3
TOXIC CHEMICALS
(Chapters 1 and 3)

(Chemical Abstract Service
registry number)

A. Toxic chemicals (not including their precursors):

- | | |
|--|------------|
| 1. Phosgene: Carbonyl dichloride | (75-44-5) |
| 2. Cyanogen chloride | (506-77-4) |
| 3. Hydrogen cyanide | (74-90-8) |
| 4. Chloropicrin: Trichloronitromethane | (76-06-2) |

B. Precursors:

- | | |
|-----------------------------|--------------|
| 5. Phosphorus oxychloride | (10025-87-3) |
| 6. Phosphorus trichloride | (7719-12-2) |
| 7. Phosphorus pentachloride | (10026-13-8) |
| 8. Trimethyl phosphite | (121-45-9) |
| 9. Triethyl phosphite | (122-52-1) |
| 10. Dimethyl phosphite | (868-85-9) |
| 11. Diethyl phosphite | (762-04-9) |
| 12. Sulfur monochloride | (10025-67-9) |
| 13. Sulfur dichloride | (10545-99-0) |
| 14. Thionyl chloride | (7719-09-7) |
| 15. Ethyldiethanolamine | (139-87-7) |
| 16. Methyl-diethanolamine | (105-59-9) |
| 17. Triethanolamine | (102-71-6) |

EXPLANATORY STATEMENT

This Bill seeks to implement the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction ("the Convention") and for matters connected therewith.

PART I 2.

Part I contains preliminary matters.

Clause 1 contains the short title and seeks to allow the Minister to appoint the date of commencement of the Act.

Clause 2 seeks to provide for the application of the Convention in Malaysia.

Clause 3 seeks to define certain words and expressions used in the proposed Act.

Clause 4 states that in the event of any conflict or inconsistency with other laws pertaining to chemical weapons, riot control agents, toxic chemicals intended for purposes which are not prohibited, and discrete organic chemicals, the proposed Act shall prevail.

Clause 5 provides for the appointment of National Inspectors and other officers for the purpose of the proposed Act.

PART II

3. Part II contains provisions relating to the establishment of the National Authority.

Clause 6 provides for the establishment of the National Authority whilst *Clause 7* deals with its functions and powers.

Clause 8 seeks to enable the National Authority to appoint committees.

Clause 9 seeks to enable the National Authority to delegate its functions or powers.

Clause 10 seeks to empower the Minister to issue directions to the National Authority.

Clause 11 deals with the tenure of office, the resignation and removal of office and allowances of the Chairman of the National Authority.

Clause 12 seeks to empower the Minister to appoint a temporary Chairman.

Clauses 13 to 17 provide for matters relating to meetings of the National Authority, appointment of its Secretary and power to make rules for regulating such meetings.

PART III

4. Part III contains provisions relating to prohibition of chemical weapons and riot control agents.

Clauses 18 and 19 list out the prohibited acts in relation to chemical weapons and riot control agents respectively.

PART IV

5. Part IV contains provisions relating to toxic chemicals.

Clause 20 provides for the prohibition and exceptions on the production, acquisition, retention, transfer or use of toxic chemicals.

Clauses 21 to 30 deal with matters concerning toxic chemicals listed in Schedule 1.

Clauses 31 to 35 deal with matters concerning toxic chemicals listed in Schedules 2 and 3.

Clauses 36 and 37 deal with matters concerning discrete organic chemicals.

PART V

6. Part V contains provisions relating to international inspection.

Clause 38 seeks to empower the Minister to issue to any member of an inspection team of the Technical Secretariat of the Organization a certificate to be an International Inspector.

Clauses 39 and 40 seek to provide for the powers of the International Inspectors and members of the National Authority in relation to international inspections.

Clauses 41 and 42 deal with matters relating to the warrant for inspection carried out by International Inspectors and the use of force, if required, in order to enter any facility specified in the said warrant.

PART VI

7. Part VI contains provisions relating to powers of enforcement and investigation.

Clauses 43 to 50 deal with matters relating to power of enforcement and investigation, search and seizure without warrant, access to computerized data, forfeiture of chemical weapons and protection of informers.

PART VII

8. Part VII contains provisions relating to miscellaneous matters.

Clauses 51 to 62 deal with matters pertaining to notice for disclosure of information, protection of officers, institution of prosecution under the proposed Act, offences by a body corporate and offences outside Malaysia.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U^a)1985]