



Isle of Man

Ellan Vannin

AT 10 of 1998

**CRIMINAL JUSTICE (EXCLUSION OF NON-
RESIDENT OFFENDERS) ACT 1998**



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**Isle of Man***Ellan Vannin*

CRIMINAL JUSTICE (EXCLUSION OF NON-RESIDENT OFFENDERS) ACT 1998

Received Royal Assent: 14 July 1998

Passed: 14 July 1998

Commenced: 1 April 1999

AN ACT to enable criminal courts to make orders excluding certain non-resident offenders from the Island; and for connected purposes.

1 Orders excluding persons from the Island

- (1) Subject to the provisions of this Act, where a court convicts a person of an offence for which he is punishable with custody, the court may make an order prohibiting that person from being in, or entering the Island.
- (2) An exclusion order —
 - (a) shall expire at the end of the period of 5 years beginning with the day on which it comes into operation; and
 - (b) shall not come into operation until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.
- (3) An exclusion order may be made —
 - (a) on application by the prosecutor; or
 - (b) by the court of its own motion.
- (4) A person who is subject to an exclusion order is guilty of an offence if he fails to comply with the order at a time after he has been, or has become liable to be, removed from the Island under this Act and shall be liable on summary conviction to custody for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or both.¹
- (5) In proceedings against a person for an offence under subsection (4) it shall be a defence for him to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

- (6) In this Act, an order under subsection (1) is referred to as an “**exclusion order**”.

2 Cases in which exclusion orders shall not be made

- (1) A court shall make an exclusion order if it is satisfied that —
- (a) it is conducive to the public good; and
 - (b) the circumstances are such that the order is not in breach of any international obligation of the United Kingdom which has effect in relation to the Island; and
 - (c) the circumstances otherwise justify the making of the order.
- (2) An exclusion order shall not be made in respect of a person who, when the offence occurred —
- (a) was ordinarily resident in the Island;
 - (b) was an Isle of Man worker within the meaning of the *Control of Employment Act 2014*; or²
 - (c) had a child, parent, spouse or civil partner ordinarily resident in the Island.³
- (2A) An exclusion order shall not be made in respect of an offender who has not attained the age of 17 years at the time of conviction, or in respect of whom that appears to the court to be the case on consideration of any available evidence.⁴
- (3) When any question arises under this Act whether or not a person is entitled to rely on subsection (2) or (2A), it shall lie on the person asserting it to prove that he is.⁵
- (4) Before making an exclusion order, a court shall explain to the person concerned, so far as material, the effect of subsection (2) or (2A).⁶

3 Exclusion orders: supplementary provisions

- (1) An exclusion order may be made in addition to any other sentence or order which may be made on conviction.
- (2) Subject to section 1(2), an exclusion order may be suspended so as to come into operation immediately after a convicted person has served a term in custody.
- (3) The question whether an offence is one for which a person is punishable with a term of custody shall be determined without regard to any enactment restricting the custody of young offenders or persons who have not previously been sentenced to imprisonment.
- (4) A person who has at any time become ordinarily resident in the Island shall not be treated for the purposes of this Act as having ceased to be so

resident by reason only of his having remained in the Island in breach of any statutory provision other than this Act.

- (5) A person shall not be treated as becoming ordinarily resident in the Island by reason only of his serving a term of custody in the Island.
- (6) The fact that an exclusion order against a person has expired shall not prevent the making of a further exclusion order against him.
- (7) For the purposes of section 2(2) a marriage or a civil partnership which has been dissolved or annulled before the offender is sentenced is to be disregarded.⁷

4 Appeals against exclusion orders

- (1) When a court makes an exclusion order, the validity of the order shall not be called into question by any other court except on an appeal to the Staff of Government Division against the order or against the conviction on which it is made.
- (2) An exclusion order shall be treated as a sentence for the purpose of any enactment providing an appeal against sentence.

5 Postponed determinations

- (1) Where a court considers that it requires further information before making an exclusion order it may, for the purpose of enabling that information to be obtained, postpone making the order for such period as it may specify.
- (2) More than one postponement may be made under subsection (1) in relation to the same case.
- (3) The court shall not specify a period under subsection (1) which —
 - (a) by itself, or
 - (b) where there have been one or more previous postponements under subsection (1), when taken together with the earlier specified period or periods,exceed 14 days beginning with the date of conviction.
- (4) A postponement or extension under subsection (1) may be made —
 - (a) on application by the defendant or the prosecutor; or
 - (b) by the court of its own motion.
- (5) Where the court exercises its power under subsection (1), it may nevertheless proceed to sentence, or otherwise deal with, the defendant in respect of the offence in question.
- (6) In this section “the date of conviction” means —
 - (a) the date on which the defendant was convicted; or

- (b) where he appeared to be sentenced in respect of more than one conviction, and those convictions were not all on the same date, the date of the latest of those convictions.

6 Removal directions

- (1) When making an exclusion order, the court may, in accordance with the following provisions of this section, give directions for —
 - (a) the removal from the Island of a person who is subject to an exclusion order; and
 - (b) where the court thinks fit, the detention of the person pending his removal.
- (2) Directions under this section may be directions for the removal from the Island of the person in question in accordance with arrangements to be made by the Chief Constable in compliance with the directions.
- (3) Directions under this section shall specify the country or territory to which the person in question is to be removed.
- (4) No directions under this section shall be for the removal of a person to any country or territory other than one —
 - (a) of which the person in question is a national or citizen;
 - (b) in which he obtained a passport or other document of identity; or
 - (c) to which there is reason to believe that he will be admitted.
- (5) No directions under this section shall be given for the removal of a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British National (Overseas) to a country or territory outside the United Kingdom unless he is also a national or citizen of, or has indicated that he is willing to be removed to, that country or territory.
- (6) A person in respect of whom directions are given under this section may be placed under the authority of a police constable or a prison officer on board any ship or aircraft in which he is to be removed in accordance with the directions.
- (7) The costs of complying with any directions under this paragraph shall be defrayed by the Department of Home Affairs out of money provided by Tynwald.

7 Detention pending removal

- (1) A person in respect of whom directions for detention pending removal have been given under section 6, may be detained in accordance with the directions.
- (2) A person liable to be detained under this section may be arrested without warrant by a police constable.

- (3) The captain of a ship or aircraft, if so requested by a police constable or a prison officer, may prevent any person placed on board the ship or aircraft under section 6 from disembarking in the Island or, before the directions for his removal have been fulfilled, elsewhere.
- (4) Where under subsection (3) the captain of a ship or aircraft is requested to prevent a person from disembarking he may for that purpose detain him in custody on board the ship or aircraft.

8 Detention: supplementary provisions

- (1) If a justice of the peace is satisfied that there are reasonable grounds for suspecting that a person liable to be arrested under section 7 is to be found on any premises he may grant a search warrant authorising any constable to enter those premises for the purpose of searching for and arresting that person.
- (2) A person detained under this Act shall be deemed to be in legal custody at any time when he is so detained and, if detained otherwise than on board a ship or aircraft, may be detained in such a place as the Department of Home Affairs may from time to time direct.
- (3) Where a person is detained under this Act, any police constable or prison officer may take all such steps as may be reasonably necessary for photographing, measuring or otherwise identifying him.
- (4) Any person detained under this Act may be taken in the custody of a constable or a prison officer to and from any place where his attendance is required for the purpose of establishing his nationality or citizenship or for making arrangements for his admission to a country or territory outside the United Kingdom or where he is required to be for any other purpose connected with the operation of this Act.

9 Interpretation

In this Act, “**exclusion order**” has the meaning given by section 1(6).

10 Short title and commencement

- (1) This Act may be cited as the Criminal Justice (Exclusion of Non-Resident Offenders) Act 1998.
- (2) This Act shall come into force on such day as the Department of Home Affairs may by order appoint and different days may be so appointed for different provisions and for different purposes.⁸

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (4) amended by Fines and Penalties Act 2024 Sch 5.

² Para (b) amended by Control of Employment Act 2014 Sch 2.

³ Subs (2) substituted by Civil Partnership Act 2011 Sch 14.

⁴ Subs (2A) inserted by Civil Partnership Act 2011 Sch 14.

⁵ Subs (3) amended by Civil Partnership Act 2011 Sch 14.

⁶ Subs (4) amended by Civil Partnership Act 2011 Sch 14.

⁷ Subs (7) added by Civil Partnership Act 2011 Sch 14.

⁸ ADO (whole Act) 1/4/1999 (SD104/99).