



Isle of Man

Ellan Vannin

AT 6 of 2003

ANTI-TERRORISM AND CRIME ACT 2003



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**Isle of Man***Ellan Vannin*

ANTI-TERRORISM AND CRIME ACT 2003

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<i>Commenced:</i>	<i>See endnotes</i>

AN ACT to repeal and replace the *Prevention of Terrorism Act 1990* and to make further provision about terrorism and criminal justice.

PART I – INTRODUCTORY

1 Terrorism: interpretation

[P2000/11/1]

- (1) In this Act “**terrorism**” means —
 - (a) the use or threat of action where —
 - (i) the action falls within subsection (2);
 - (ii) the use or threat is designed to influence the government or an international organisation or to intimidate the public or a section of the public; and
 - (iii) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause; or
 - (b) any activity that —
 - (i) constitutes a Convention offence; or
 - (ii) would constitute a Convention offence if done in the Island.¹
- (2) Action falls within this subsection if it —
 - (a) involves serious violence against a person,
 - (b) involves serious damage to property,
 - (c) endangers a person’s life, other than that of the person committing the action,
 - (d) creates a serious risk to the health or safety of the public or a section of the public;

- (e) is designed seriously to interfere with or seriously to disrupt an electronic system.
 - (f) [Repealed]²
 - (g) [Repealed]³
- (3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(a)(ii) is satisfied.⁴
- (4) In this section —
 - (a) “action” includes action outside the Island;
 - (b) a reference to any person or to property is a reference to any person, or to property, wherever situated;
 - (c) a reference to the public includes a reference to the public of a country or territory other than the Island; and
 - (d) “the government” means the government of the Island, of the United Kingdom, of a part of the United Kingdom or of any other country or territory.
- (5) In this Act a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed organisation or other terrorist organisation.⁵
- (6) In this Act “**act of terrorism**” includes anything constituting an action taken for the purposes of terrorism.⁶
- (7) For the purposes of this Act an offence has a terrorist connection if the offence —
 - (a) is, or takes place in the course of, an act of terrorism; or
 - (b) is committed for the purposes of terrorism.⁷
- (8) In this Act “terrorist organisation” means —
 - (a) a proscribed organisation; or
 - (b) an organisation that, directly or indirectly, —
 - (i) commits an act of terrorism;
 - (ii) prepares or instigates an act of terrorism; or
 - (iii) facilitates the commission, preparation or instigation of an act of terrorism,(whether or not, in the case of sub-paragraphs (ii) or (iii), the act of terrorism occurs).⁸

PART II – PROSCRIBED ORGANISATIONS

Proscription

2 Proscribed organisations

[P2000/11/3]

- (1) For the purposes of this Act an organisation is proscribed if –
 - (a) it is listed in Schedule 2 to the Terrorism Act 2000 (an Act of Parliament) (in this Act referred to as the “UK Act”), or
 - (b) it operates under the same name as an organisation listed in that Schedule.
- (2) Subsection (1)(b) shall not apply in relation to an organisation listed in Schedule 2 to the UK Act if its entry is the subject of a note in that Schedule.
- (3) The Department shall maintain a list of the organisations that are for the time being included in Schedule 2 to the UK Act.¹
- (4) As soon as practicable after any amendment is made to Schedule 2 to the UK Act the Department must –
 - (a) arrange for the publication of the amended list in the electronic gazette; or
 - (b) take such other reasonable steps to bring it to the attention of the public as it considers appropriate.⁹
- (5) Where an order made by the Secretary of State under section 3(6) of the UK Act provides for a name to be treated as another name for an organisation, this Act has effect in relation to acts occurring while –
 - (a) the order is in force;
 - (b) the organisation continues to be listed in Schedule 2 to the UK Act, as if the organisation were listed in that Schedule under the other name, as well as under the name specified in the Schedule.¹⁰
- (6) Nothing in subsection (5) prevents any liability from being established in any proceedings by proof that an organisation is the same as an organisation listed in Schedule 2 to the UK Act, even though it is or was operating under a name specified neither in that Schedule nor in an order made by the Secretary of State under section 3(6) of the UK Act.¹¹

¹ A list of the proscribed organisations contained in Schedule 2 to the Terrorism Act 2000 may be found at <https://www.legislation.gov.uk/ukpga/2000/11/schedule/2>. See also <https://www.gov.im/about-the-government/departments/home-affairs/chief-executives-office/proscribed-terrorist-organisations/>

*Offences***3 Membership**

[P2000/11/11]

- (1) A person commits an offence if he belongs or professes to belong to a proscribed organisation.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove —
 - (a) that the organisation was not proscribed on the last (or only) occasion on which he became a member or began to profess to be a member, and
 - (b) that he has not taken part in the activities of the organisation at any time while it was proscribed.
- (3) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on indictment, to custody for a term not exceeding 10 years, to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.¹²
- (4) In subsection (2) “proscribed” means proscribed for the purposes of this Act, the *Prevention of Terrorism Act 1990* and any of the following Acts of Parliament —
 - (a) the UK Act;
 - (b) the Northern Ireland (Emergency Provisions) Act 1996;
 - (c) the Northern Ireland (Emergency Provisions) Act 1991;
 - (d) the Prevention of Terrorism (Temporary Provisions) Act 1989;
 - (e) the Prevention of Terrorism (Temporary Provisions) Act 1978;
 - (f) the Northern Ireland (Emergency Provisions) Act 1976;
 - (g) the Prevention of Terrorism (Temporary Provisions) Act 1976;
 - (h) the Prevention of Terrorism (Temporary Provisions) Act 1974;
 - (i) the Northern Ireland (Emergency Provisions) Act 1973.

4 Support

[P2000/11/12]

- (1) A person commits an offence if —
 - (a) he invites support for a proscribed organisation, and
 - (b) the support is not, or is not restricted to, the provision of money or other property (within the meaning of section 6).

- (2) A person commits an offence if he arranges, manages or assists in arranging or managing a meeting which he knows is —
 - (a) to support a proscribed organisation,
 - (b) to further the activities of a proscribed organisation, or
 - (c) to be addressed by a person who belongs or professes to belong to a proscribed organisation.
- (3) A person commits an offence if he addresses a meeting and the purpose of his address is to encourage support for a proscribed organisation or to further its activities.
- (4) Where a person is charged with an offence under subsection (2)(c) in respect of a private meeting it is a defence for him to prove that he had no reasonable cause to believe that the address mentioned in subsection (2)(c) would support a proscribed organisation or further its activities.
- (5) In subsections (2) to (4) —
 - (a) “meeting” means a meeting of 3 or more persons, whether or not the public are admitted, and
 - (b) a meeting is private if the public are not admitted.
- (6) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on indictment, to custody for a term not exceeding 10 years, to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.¹³

5 Uniform

[P2000/11/13]

- (1) A person in a public place commits an offence if he —
 - (a) wears an item of clothing, or
 - (b) wears, carries or displays an article,in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organisation.
- (2) A person guilty of an offence under this section shall be liable on summary conviction to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale, or to both.¹⁴

PART III – TERRORIST PROPERTY

Interpretation

6 Terrorist property

[P2000/11/14]

- (1) In this Act “**terrorist property**” means —
 - (a) money or other property which is likely to be used for the purposes of terrorism (including any resources of a terrorist organisation),¹⁵
 - (b) proceeds of the commission of acts of terrorism, and
 - (c) proceeds of acts carried out for the purposes of terrorism.
- (2) In subsection (1) —
 - (a) a reference to proceeds of an act includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments or other rewards in connection with its commission), and
 - (b) the reference to an organisation’s resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organisation.

Offences

7 Fund-raising

[P2000/11/15 and 22]

- (1) A person commits an offence if he —
 - (a) invites another to provide money or other property, and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
- (2) A person commits an offence if he —
 - (a) receives money or other property, and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
- (3) A person commits an offence if he —
 - (a) provides money or other property, and
 - (b) knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.
- (4) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

- (5) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on information, to custody for a term not exceeding 14 years, to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.¹⁶

8 Use and possession

[P2000/11/16 and 22]

- (1) A person commits an offence if he uses money or other property for the purposes of terrorism.
- (2) A person commits an offence if he —
 - (a) possesses money or other property, and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
- (3) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on information, to custody for a term not exceeding 14 years, to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.¹⁷

9 Facilitating funding

- (1) A person commits an offence if —
 - (a) he or she facilitates money or other property being made available to another person; and
 - (b) he or she —
 - (i) knows;
 - (ii) has reasonable cause to suspect that; or
 - (iii) has failed to exercise due diligence as to whether,¹⁸it will or may be used for the purposes of terrorism.
- (2) A person guilty of an offence under this section is liable —
 - (a) on conviction on information, to custody for a term not exceeding 14 years, to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.¹⁹
- (3) In this section, section 9A and in section 10, “**facilitates**” includes failing to take action that results in the activity in question being made easier.^{20 21}

9A Financing travel

- (1) A person commits an offence if —
- (a) he or she provides or facilitates the provision of money or other property which is used to finance the travel of a person for the purpose of —
 - (i) the perpetration, planning, preparation of or participation in an act of terrorism; or
 - (ii) the provision or receipt of terrorist training; and
 - (b) he or she —
 - (i) knows; or
 - (ii) has reasonable cause to believe,
- it will be used for a purpose specified in paragraph (a).
- (2) A person guilty of an offence under this section is liable —
- (a) on conviction on information, to custody for a term not exceeding 14 years, to a fine or to both; or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.^{22 23}

10 Money laundering

[P2000/11/18 and 22]

- (1) A person commits an offence if, for himself or another, he facilitates the retention or control of terrorist property —
- (a) by concealment,
 - (aa) by disguise,²⁴
 - (ab) by conversion,²⁵
 - (b) by removal from the jurisdiction,
 - (c) by transfer to nominees, or
 - (d) in any other way.²⁶
- (2) But a person does not commit such an offence if the person does not know and has no reason to suspect that the property is terrorist property.²⁷
- (3) A person guilty of an offence under this section shall be liable —
- (a) on conviction on information, to custody for a term not exceeding 14 years, to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.²⁸

- (4) Concealing or disguising terrorist property includes concealing or disguising its nature, source, disposition, movement or ownership or any rights with respect to it.²⁹

10A Offences committed outside the Island

- (1) This section applies if —
 - (a) a resident of the Island does anything in a country or territory outside the Island; and
 - (b) the act would, if it took place in the Island, constitute an offence under section 10.
- (2) In such a case —
 - (a) the act constitutes the offence concerned;
 - (b) proceedings for the offence may be taken in the Island;
 - (c) the offence may be treated for incidental purposes as having been committed in the Island.
- (3) In this section —
 - (a) a reference to an offence includes —
 - (i) an attempt, conspiracy or incitement to commit an offence;
 - (ii) aiding, abetting, counselling or procuring the commission of an offence; and
 - (b) a resident of the Island means —
 - (i) an individual who is ordinarily resident in the Island; or
 - (ii) a body corporate or partnership that is incorporated or formed under the laws of the Island.³⁰

11 Disclosure of information: duty

[P2000/11/19; P2008/28/77(2)]

- (1) This section applies where a person —
 - (a) believes or suspects that another person has committed an offence under any of sections 7 to 10, and
 - (b) bases his belief or suspicion on information which comes to the person's attention —
 - (i) in the course of a trade, profession or business; or
 - (ii) in the course of the person's employment (whether or not in the course of a trade, profession or business),

but does not apply if the information came to the person in the course of a business in the regulated sector.³¹
- (2) The person commits an offence if he does not disclose to the FIU as soon as is reasonably practicable —

- (a) his belief or suspicion, and
 - (b) the information on which it is based.³²
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for not making the disclosure.
- (4) Where —
 - (a) a person is in employment,
 - (b) his employer has established a procedure for the making of disclosures of the matters specified in subsection (2), and
 - (c) he is charged with an offence under that subsection,it is a defence for him to prove that he disclosed the matters specified in that subsection in accordance with the procedure.
- (5) Subsection (2) does not require disclosure by a professional legal adviser of —
 - (a) information which he obtains in privileged circumstances, or
 - (b) a belief or suspicion based on information which he obtains in privileged circumstances.
- (6) For the purpose of subsection (5) information is obtained by an adviser in privileged circumstances if it comes to him, otherwise than with a view to furthering a criminal purpose —
 - (a) from a client or a client's representative, in connection with the provision of legal advice by the adviser to the client,
 - (b) from a person seeking legal advice from the adviser, or from the person's representative, or
 - (c) from any person, for the purpose of actual or contemplated legal proceedings.
- (7) For the purposes of subsection (1)(a) a person shall be treated as having committed an offence under one of sections 7 to 10 if —
 - (a) he has taken an action or been in possession of a thing, and
 - (b) he would have committed an offence under one of those sections if he had been in the Island at the time when he took the action or was in possession of the thing.
- (8) In this section —
 - (a) the reference to a business in the regulated sector must be construed in accordance with Schedule 4 to the *Proceeds of Crime Act 2008*.³³
 - (b) [Repealed]³⁴
- (9) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on information, to custody for a term not exceeding 5 years, to a fine or to both, or

- (b) on summary conviction, to custody for a term not exceeding 12 months, or to a fine not exceeding level 5 on the standard scale or to both.³⁵

12 Disclosure of information: permission

[P2000/11/20]

- (1) A person may disclose to the FIU —
 - (a) a suspicion or belief that any money or other property is terrorist property or is derived from terrorist property;
 - (b) any matter on which the suspicion or belief is based.³⁶
- (2) A person may make a disclosure to the FIU in the circumstances mentioned in section 11(1) and (2).³⁷
- (3) Subsections (1) and (2) shall have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.
- (4) Where —
 - (a) a person is in employment, and
 - (b) his employer has established a procedure for the making of disclosures of the kinds mentioned in subsection (1) and section 11(2),subsections (1) and (2) shall have effect in relation to that person as if any reference to disclosure to the FIU included a reference to disclosure in accordance with the procedure.³⁸
- (5) [Repealed]³⁹

13 Co-operation with police

[P2000/11/21]

- (1) A person does not commit an offence under any of sections 7 to 10 if he is acting with the express consent of the FIU.⁴⁰
- (2) Subject to subsections (3) and (4), a person does not commit an offence under any of sections 7 to 10 if he discloses to the FIU —
 - (a) his suspicion or belief that the money or other property is terrorist property, and
 - (b) the information on which his suspicion or belief is based.⁴¹
- (3) Subsection (2) applies only where a person makes a disclosure —
 - (a) after he becomes concerned in the circumstances giving rise to the offence,⁴²
 - (b) on his own initiative, and
 - (c) as soon as is reasonably practicable.
- (4) Subsection (2) does not apply to a person if —

- (a) the FIU forbids him to continue his involvement in the matter to which the disclosure relates, and⁴³
 - (b) he continues his involvement.
- (5) It is a defence for a person charged with an offence under any of sections 7(2) and (3) and 8 to 10 to prove that —
 - (a) he intended to make a disclosure of the kind mentioned in subsections (2) and (3), and
 - (b) there is reasonable excuse for his failure to do so.
- (6) Where —
 - (a) a person is in employment, and
 - (b) his employer has established a procedure for the making of disclosures of the same kind as may be made to the FIU under subsection (2),⁴⁴

this section shall have effect in relation to that person as if any reference to disclosure to the FIU included a reference to disclosure in accordance with the procedure.⁴⁵
- (7) [Repealed]⁴⁶

13A Arrangements with prior consent

P2000/11/21ZA

- (1) A person does not commit an offence under any of sections 7, 8, 9, 9A or 10 by involvement in a transaction or an arrangement relating to money or other property if, before becoming involved, the person —
 - (a) discloses to the FIU the person's suspicion or belief that the money or other property is terrorist property and the information on which the suspicion or belief is based; and
 - (b) has the consent of the FIU to becoming involved in the transaction or arrangement.
- (2) A person is treated as having the consent of the FIU if before the end of the notice period the person does not receive notice from the FIU that consent is refused.
- (3) The notice period is the period of 7 working days starting with the first working day after the person makes the disclosure.
- (4) A working day is a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day that is a bank holiday under the *Bank Holidays Act 1989*.
- (5) The reference in this section to a transaction or arrangement relating to money or other property includes a reference to use or possession.⁴⁷

13B Disclosure after entering into arrangements

P2000/11/21ZB

- (1) A person does not commit an offence under any of sections 7, 8, 9, 9A or 10 by involvement in a transaction or an arrangement relating to money or other property if, after becoming involved, the person discloses to the FIU —
 - (a) the person's suspicion or belief that the money or other property is terrorist property; and
 - (b) the information on which the suspicion or belief is based.
- (2) This section applies only where —
 - (a) there is a reasonable excuse for the person's failure to make the disclosure before becoming involved in the transaction or arrangement; and
 - (b) the disclosure is made on the person's own initiative and as soon as it is reasonably practicable for the person to make it.
- (3) This section does not apply to a person if —
 - (a) the FIU forbids the person to continue involvement in the transaction or arrangement to which the disclosure relates; and
 - (b) the person continues that involvement.
- (4) The reference in this section to a transaction or arrangement relating to money or other property includes a reference to use or possession.⁴⁸

13C Reasonable excuse for failure to disclose

P2000/11/21ZC

It is a defence for a person charged with an offence under any of sections 7, 8, 9, 9A or 10 to prove that —

- (a) the person intended to make a disclosure of the kind mentioned in section 13A or 13B; and
- (b) there is a reasonable excuse for the person's failure to do so.⁴⁹

14 Failure to disclose: regulated sector

[P2000/11/21A]

- (1) A person commits an offence if each of the following three conditions is satisfied.
- (2) The first condition is that he —
 - (a) knows or suspects, or
 - (b) has reasonable grounds for knowing or suspecting,that another person has committed an offence under any of sections 7 to 10.

- (3) The second condition is that the information or other matter —
 - (a) on which his knowledge or suspicion is based, or
 - (b) which gives reasonable grounds for such knowledge or suspicion, came to him in the course of a business in the regulated sector.
- (4) The third condition is that he does not disclose the information or other matter to the FIU or a nominated officer as soon as is practicable after it comes to him.⁵⁰
- (5) But a person does not commit an offence under this section if —
 - (a) he has a reasonable excuse for not disclosing the information or other matter;
 - (b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.
- (6) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant guidance which was at the time concerned —
 - (a) issued by a supervisory authority or any other appropriate body, and
 - (b) approved by the Treasury, and
 - (c) published in a manner it approved as appropriate in its opinion to bring the guidance to the attention of persons likely to be affected by it.
- (7) A disclosure to a nominated officer is a disclosure which —
 - (a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section, and
 - (b) is made in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose.
- (8) Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him —
 - (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
 - (b) by (or by a representative of) a person seeking legal advice from the adviser, or
 - (c) by a person in connection with legal proceedings or contemplated legal proceedings.
- (9) But subsection (8) does not apply to information or other matter which is communicated or given with a view to furthering a criminal purpose.
- (10) Schedule 4 to the *Proceeds of Crime Act 2003* has effect for the purpose of determining what is —

- (a) a business in the regulated sector;
 - (b) a supervisory authority.⁵¹
- (11) For the purposes of subsection (2) a person is to be taken to have committed an offence under one of sections 7 to 10 if —
 - (a) he has taken an action or been in possession of a thing, and
 - (b) he would have committed the offence if he had been in the Island at the time when he took the action or was in possession of the thing.
- (12) A person guilty of an offence under this section is liable —
 - (a) on conviction on information, to custody for a term not exceeding 5 years or to a fine or to both;
 - (b) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale or to both.⁵²
- (13) An appropriate body is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.
- (14) [Repealed]⁵³

15 Protected disclosures

[P2000/11/21B]

- (1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (2) The first condition is that the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of a business in the regulated sector.
- (3) The second condition is that the information or other matter —
 - (a) causes the discloser to know or suspect, or
 - (b) gives him reasonable grounds for knowing or suspecting,that another person has committed an offence under any of sections 7 to 10.
- (4) The third condition is that the disclosure is made to the FIU or a nominated officer as soon as is practicable after the information or other matter comes to the discloser.⁵⁴
- (5) A disclosure to a nominated officer is a disclosure which —
 - (a) is made to a person nominated by the discloser's employer to receive disclosures under this section, and

- (b) is made in the course of the discloser's employment and in accordance with the procedure established by the employer for the purpose.
- (6) The reference to a business in the regulated sector must be construed in accordance with Schedule 1.
- (7) [Repealed]⁵⁵

15ZA Tipping off: regulated sector

P2000/11/21D

- (1) A person commits an offence if the person discloses any matter within subsection (2).
- (2) The matters are that the person or another person has made a disclosure under a provision of this Part —
 - (a) to the FIU;
 - (b) in accordance with a procedure established by that person's employer for the making of disclosures under that provision; or
 - (c) to a nominated officer,of information that came to that person in the course of a business in the regulated sector.
- (3) A person commits an offence if the person discloses that an investigation into allegations that an offence under this Part has been committed, is being contemplated or is being carried out.
- (4) To avoid doubt, an offence is committed under subsections (1) and (3) whether or not the person's actions result in prejudice to an investigation.
- (5) A person guilty of an offence under this section is liable —
 - (a) on summary conviction to custody for a term not exceeding 3 months, or to a fine not exceeding level 5 on the standard scale, or to both;
 - (b) on conviction on information to custody for a term not exceeding 2 years, or to a fine, or to both.
- (6) This section is subject to —
 - (a) section 15ZB (disclosures within an undertaking or group etc);
 - (b) section 15ZC (other permitted disclosures between institutions etc); and
 - (c) section 15ZD (other permitted disclosures etc).⁵⁶

15ZB Disclosures within an undertaking or group etc

P2000/11/21E & 2008/13/146

- (1) An employee, officer or partner of an undertaking does not commit an offence under section 15ZA if the disclosure is to an employee, officer or partner of the same undertaking.
- (2) A person does not commit an offence under section 15ZA in respect of a disclosure by a financial institution if —
 - (a) the disclosure is to a financial institution;
 - (b) the financial institution to whom the disclosure is made is situated in an approved country or territory; and
 - (c) both the institution making the disclosure and the institution to which it is made belong to the same group.
- (3) In subsection (2), “group” is to be construed in accordance with any order made by the Department under section 146(5) of the *Proceeds of Crime Act 2008*.
- (4) A professional legal adviser or a relevant professional adviser does not commit an offence under section 15ZA if —
 - (a) the disclosure is to a professional legal adviser or a relevant professional adviser;
 - (b) both the person making the disclosure and the person to whom it is made carry on business in an approved country or territory; and
 - (c) those persons perform their professional activities within different undertakings that share common ownership, management or control.⁵⁷

15ZC Other permitted disclosures between institutions etc

P2000/11/21F & 2008/13/147

- (1) This section applies to a disclosure —
 - (a) by a financial institution to another financial institution;
 - (b) by a professional legal adviser to another professional legal adviser; or
 - (c) by a relevant professional adviser of a particular kind to another relevant professional adviser of the same kind.
- (2) A person does not commit an offence under section 15ZA in respect of a disclosure to which this section applies if —
 - (a) the disclosure relates to —
 - (i) a client or former client of the institution or adviser making the disclosure and the institution or adviser to whom it is made;
 - (ii) a transaction involving them both; or

- (iii) the provision of a service involving them both;
- (b) the disclosure is for the purpose only of preventing an offence under this Part;
- (c) the institution or adviser to whom the disclosure is made is situated in an approved country or territory; and
- (d) the institution or adviser making the disclosure and the institution or adviser to whom it is made are subject to equivalent duties of professional confidentiality and the protection of personal data (within the meaning of Parts 6 to 8 of the GDPR and LED Implementing Regulations 20183 as amended from time to time (see regulation 5 of those Regulations)).⁵⁸

15ZD Other permitted disclosures etc

P2000/11/21G & 2008/13/148

- (1) A person does not commit an offence under section 15ZA if the disclosure is —
 - (a) to the authority that is the supervisory authority for that person;
 - (b) for the purpose of —
 - (i) the detection, investigation or prosecution of a criminal offence (whether in the Island or elsewhere);
 - (ii) an investigation under the *Proceeds of Crime Act 2008*; or
 - (iii) the enforcement of any order of a court under that Act.
- (2) A professional legal adviser or a relevant professional adviser does not commit an offence under section 15ZA if the disclosure —
 - (a) is to the adviser's client; and
 - (b) is made for the purpose of dissuading the client from engaging in conduct amounting to an offence.⁵⁹

15ZE Interpretation of sections 15ZA to 15ZD

P2000/11/21H & 2008/13/149

- (1) The references in sections 15ZA to 15ZD —
 - (a) to a business in the regulated sector; and
 - (b) to a supervisory authority;are to be construed in accordance with Schedule 4 to the *Proceeds of Crime Act 2008*.
- (2) In those sections “financial institution” is to be construed in accordance with an order made by the Department under section 149(5) of the *Proceeds of Crime Act 2008*.

- (3) References in those sections to a disclosure by or to a financial institution include disclosure by or to an employee, officer or partner of the institution acting on its behalf.
- (4) In those sections “relevant professional adviser” means an accountant, auditor or tax adviser who is a member of a professional body which is established for accountants, auditors or tax advisers (as the case may be) and which makes provision for —
 - (a) testing the competence of those seeking admission to membership of such a body as a condition for such admission; and
 - (b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards.
- (5) In those sections “an approved country or territory” means a country or territory specified on a list maintained for the purpose and published by the Department, which may include reference to a prescription made from time to time by an international body within the meaning of section 76B.⁶⁰

15A Meaning of “employment”

[P2008/28/77(3) & (4)]

- (1) In sections 11 to 15 —
 - (a) “**employment**” means any employment (whether paid or unpaid) and includes —
 - (i) work under a contract for services or as an office-holder;
 - (ii) work experience provided pursuant to a training course or programme or in the course of training for employment; and
 - (iii) voluntary work;
 - (b) “**employer**” has a corresponding meaning.
- (2) So far as subsection (1) extends any provision of sections 11 to 15 involving belief or suspicion to cases to which that provision did not previously apply, that provision applies where the belief or suspicion is held after this section comes into operation even if based on information that came to the person’s attention before this section was in operation.
- (3) In any such case sections 11(2), 13(3) and 14(4) (duty to make disclosure as soon as is reasonably practicable) are to be read as requiring the person to act as soon as is reasonably practicable after this section comes into operation.⁶¹

*Forfeiture***16 Forfeiture: terrorist property offences**

[P2008/28/34]

- (1) The court by or before which a person is convicted of an offence under any of sections 7 to 10 may make a forfeiture order in accordance with this section.
- (2) Where a person is convicted of an offence under section 7(1) or (2) or 8, the court may order the forfeiture of any money or other property which, at the time of the offence, the person had in his or her possession or under his or her control and which —
 - (a) had been used for the purposes of terrorism; or
 - (b) the person intended should be used, or had reasonable cause to suspect might be used, for those purposes.
- (3) Where a person is convicted of an offence under section 7(3), the court may order the forfeiture of any money or other property which, at the time of the offence, the person had in his or her possession or under his or her control and which —
 - (a) had been used for the purposes of terrorism; or
 - (b) which, at that time, he or she knew or had reasonable cause to suspect would or might be used for those purposes.
- (4) Where a person is convicted of an offence under section 9 or 10 the court may order the forfeiture of any money or other property which, at the time of the offence, the person had in his or her possession or under his or her control and which —
 - (a) had been used for the purposes of terrorism; or
 - (b) was, at that time, intended by him or her to be used for those purposes.
- (5) Where a person is convicted of an offence under section 9 the court may order the forfeiture of the money or other property to which the offence related, and which —
 - (a) had been used for the purposes of terrorism; or
 - (b) at the time of the offence, the person knew or had reasonable cause to suspect would or might be used for those purposes.
- (6) Where a person is convicted of an offence under section 10 the court may order the forfeiture of the money or other property to which the offence related.
- (7) Where a person is convicted of an offence under any of sections 7 to 10, the court may order the forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a

payment or other reward in connection with the commission of the offence.⁶²

16A Forfeiture: other terrorism offences and offences with a terrorist connection

[P2008/28/35]

- (1) The court by or before which a person is convicted of an offence to which this section applies may order the forfeiture of any money or other property in relation to which the following conditions are met —
 - (a) that it was, at the time of the offence, in the possession or control of the person convicted; and
 - (b) that —
 - (i) it had been used for the purposes of terrorism;
 - (ii) it was intended by that person that it should be used for the purposes of terrorism; or
 - (iii) the court believes that it will be used for the purposes of terrorism unless forfeited.
- (2) This section applies to —
 - (a) any offence under this Act other than an offence under sections 7 to 10; and
 - (b) an offence specified in Schedule 2A (offences where terrorist connection to be considered) as to which the court dealing with the offence has determined, in accordance with section 72B, that the offence has a terrorist connection.⁶³

16B Special forfeiture orders

- (1) This section applies where —
 - (a) the court wishes to make a forfeiture order under section 16 or 16A;
 - (b) the court is prevented from making the order, or an order to the extent it wishes, due only to the money or other property mentioned in those sections being no longer in the possession or control of the convicted person; and
 - (c) the convicted person has money or other property, or an interest in money or other property, that the court wishes to be the subject of a forfeiture order.
- (2) Where the conditions in subsection (1) are satisfied, the court may make a special forfeiture order in relation to any money or other property mentioned in subsection (1)(c) up to the equivalent value of the money or other property mentioned in section 16 or 16A.⁶⁴

16C Forfeiture: supplementary provisions

[P2008/28/36]

- (1) Before making an order under section 16, 16A or 16B, a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner or otherwise interested in anything which can be forfeited under that section.
- (2) In considering whether to make an order under section 16, 16A or 16B in respect of any property, a court must have regard to —
 - (a) the value of the property; and
 - (b) the likely financial and other effects on the convicted person of the making of the order (taken together with any other order that the court contemplates making).
- (3) When considering whether to make an order under section 16, 16A or 16B, the court may take into account any information that has been placed before it showing that a victim of an offence to which the proceedings relate has instituted, or intends to institute, civil proceedings against the defendant in respect of loss, injury or damage sustained in connection with the offence.
- (4) Schedule 2 makes further provision in relation to forfeiture orders under section 16, 16A or 16B.⁶⁵

Terrorist cash and accounts

17 Forfeiture of terrorist cash

[P2001/24/1]

Schedule 3 (which makes provision for the forfeiture of terrorist cash in civil proceedings before the High Bailiff) shall have effect.

18 Account monitoring orders

[P2000/11/38A]

Schedule 4 (account monitoring orders) shall have effect.

PART IIIA - NOTIFICATION REQUIREMENTS

Introductory

18A Scheme of this Part

[P2008/28/40]

- (1) This Part imposes notification requirements on persons dealt with in respect of certain offences —
 - (a) sections 18B to 18D specify the offences to which this Part applies;

- (b) sections 18E to 18G make provision as to the sentences or orders triggering the notification requirements;
 - (c) sections 18H to 18L contain the notification requirements; and
 - (d) section 18M makes provision as to the period for which the requirements apply.
- (2) This Part also provides for —
 - (a) orders applying the notification requirements to persons dealt with outside the Island for corresponding offences (see sections 18Q to 18T); and
 - (b) orders imposing restrictions on travel outside the Island on persons subject to the notification requirements (see section 18U and Schedule 4A).⁶⁶

Offences to which this Part applies

18B Offences to which this Part applies: terrorism offences

[P2008/28/41]

This Part applies to an offence under this Act.⁶⁷

18C Offences to which this Part applies: offences having terrorist connection

[P2008/28/42]

- (1) This Part applies to an offence specified in Schedule 2A that a court has determined under section 72B (sentences for offences with a terrorist connection) to have a terrorist connection.
- (2) A person to whom the notification requirements apply by virtue of such a determination as is mentioned in subsection (1) may appeal against it to the same court, and subject to the same conditions, as an appeal against sentence.
- (3) If the determination is set aside on appeal, the notification requirements are treated as never having applied to that person in respect of the offence.
- (4) Where an order is made under section 72C removing an offence from the list in Schedule 2A, a person subject to the notification requirements by reason of that offence being so listed (and who is not otherwise subject to those requirements) ceases to be subject to them when the order comes into operation.⁶⁸

18D Offences dealt with before commencement

[P2008/28/43]

- (1) This Part applies to a person dealt with for an offence before the commencement of this Part only if —

- (a) the offence is on the commencement of this Part within section 18B (offences to which this Part applies: terrorism offences); and
 - (b) immediately before the commencement of this Part the person —
 - (i) is in custody or detained in pursuance of the sentence passed or order made in respect of the offence;
 - (ii) would be so in custody or detained but for being unlawfully at large, absent without leave, on temporary leave or leave of absence, or on bail pending an appeal; or
 - (iii) is on licence, having served the custodial part of a sentence of custody in respect of the offence.
- (2) In relation to a person dealt with for an offence before the commencement of this Part —
- (a) any reference in this Part to a sentence or order under a specified statutory provision includes a sentence or order under any corresponding earlier statutory provision;
 - (b) any reference in this Part to a person's being or having been found to be under a disability and to have done the act charged against him or her in respect of an offence includes a reference to that person's being or having been found —
 - (i) unfit to be tried for the offence;
 - (ii) insane so that his or her trial for the offence cannot or could not proceed; or
 - (iii) unfit to be tried and to have done the act charged against him or her in respect of the offence.⁶⁹

Persons to whom notification requirements apply

18E Persons to whom notification requirements apply

[P2008/28/44]

The notification requirements apply to a person who —

- (a) is aged 16 or over at the time of being dealt with for an offence to which this Part applies; and
- (b) is made subject in respect of the offence to a sentence or order within section 18F (sentences or orders triggering notification requirements).⁷⁰

18F Sentences or orders triggering notification requirements

[P2008/28/45]

The notification requirements apply to a person who —

- (a) has been convicted of an offence to which this Part applies and sentenced in respect of the offence to —

- (i) custody for life;
 - (ii) in the case of a person under the age of 18, to custody for 12 months or more; or
 - (iii) detention during Her Majesty's pleasure; or
- (b) has been —
 - (i) convicted of an offence to which this Part applies carrying a maximum term of custody of 12 months or more;
 - (ii) found not guilty by reason of insanity of such an offence; or
 - (iii) found to be under a disability and to have done the act charged against them in respect of such an offence,and made subject in respect of the offence to a hospital order.⁷¹

18G Power to amend specified terms or periods of custody or detention

[P2008/28/46]

- (1) The Department may by order amend the provisions of section 18F referring to a specified term or period of custody or detention.
- (2) An order reducing a specified term or period has effect only in relation to persons dealt with after the order comes into operation.
- (3) Where an order increases a specified term or period —
 - (a) it has effect in relation to persons dealt with at any time, whether before or after the order comes into operation; and
 - (b) a person who would not have been subject to the notification requirements if the order had been in operation when the offence was dealt with (and who is not otherwise subject to those requirements) ceases to be subject to the requirements when the order comes into operation.⁷²

Notification requirements

18H Initial notification

[P2008/28/47]

- (1) A person to whom the notification requirements apply must notify the following information to the police within the period of 3 days beginning with the day on which the person is dealt with in respect of the offence in question.
- (2) The information required is —
 - (a) the person's date of birth;
 - (b) the person's national insurance number;

- (c) the person's name on the date on which the person was dealt with in respect of the offence (or, where the person used one or more other names on that date, each of those names);
 - (d) the person's home address on that date;
 - (e) the person's name on the date on which notification is made (or, where the person uses one or more other names on that date, each of those names);
 - (f) the person's home address on the date on which notification is made;
 - (g) the address of any other premises in the Island at which, at the time the notification is made, the person regularly resides or stays;
 - (h) if the person is employed, the name and address of the person's employer;
 - (i) if the person is undergoing further education, the name and address of the educational establishment and the title of the course concerned;
 - (j) any prescribed information.
- (3) In determining the period within which notification is to be made under this section, there shall be disregarded any time when the person is —
- (a) remanded in or committed to custody by an order of a court;
 - (b) serving a sentence of custody or detention;
 - (c) detained in a hospital; or
 - (d) detained under the Immigration Acts.
- (4) This section does not apply to a person who —
- (a) is subject to the notification requirements in respect of another offence (and does not cease to be so subject before the end of the period within which notification is to be made); and
 - (b) has complied with this section in respect of that offence.
- (5) In the application of this section to a person dealt with for an offence before the commencement of this Part who, immediately before commencement —
- (a) would be in custody or detained in respect of the offence but for being unlawfully at large, absent without leave, on temporary leave or leave of absence, or on bail pending an appeal; or
 - (b) is on licence, having served the custodial part of a sentence of custody in respect of the offence,

the reference in subsection (1) to the day on which the person is dealt with in respect of the offence shall be read as a reference to the commencement of this Part.⁷³

18I Notification of changes

[P2008/28/48]

- (1) A person to whom the notification requirements apply who uses a name that has not previously been notified to the police must notify the police of that name.
- (2) If there is a change of the home address of a person to whom the notification requirements apply, the person must notify the police of the new home address.
- (3) A person to whom the notification requirements apply who resides or stays at premises in the Island the address of which has previously not been notified to the police —
 - (a) for a period of 7 days; or
 - (b) for 2 or more periods, in any period of 12 months, that taken together amount to 7 days,must notify the police of the address of those premises.
- (4) A person to whom the notification requirements apply who is released —
 - (a) from custody pursuant to an order of a court;
 - (b) from custody or detention pursuant to a sentence of a court;
 - (c) from detention in a hospital; or
 - (d) from detention under the Immigration Acts,must notify the police of that fact.

This provision does not apply if the person is at the same time required to notify the police under section 18H (initial notification).

- (5) A person who is required to notify information within section 18H(2)(j) (prescribed information) must notify the police of the prescribed details of any prescribed changes in that information.
- (6) Notification under this section must be made before the end of the period of 3 days beginning with the day on which the event in question occurs.

Where subsection (3) applies that is the day with which the period referred to in paragraph (a) or (b) (as the case may be) ends.

- (7) In determining the period within which notification is to be made under this section, there shall be disregarded any time when the person is —
 - (a) remanded in or committed to custody by an order of a court;
 - (b) serving a sentence of custody or detention;
 - (c) detained in a hospital; or
 - (d) detained under the Immigration Acts.
- (8) References in this section to previous notification are to previous notification by the person under section 18H (initial notification), this

section, section 18J (periodic re-notification) or section 18P (notification on return after absence from Island).

- (9) Notification under this section must be accompanied by re-notification of the other information mentioned in section 18H(2).⁷⁴

18J Periodic re-notification

[P2008/28/49]

- (1) A person to whom the notification requirements apply must, within the period of one year after last notifying the police in accordance with —
- (a) section 18H (initial notification);
 - (b) section 18I (notification of changes);
 - (c) this section; or
 - (d) section 18P (notification on return after absence from Island),
- re-notify to the police the information mentioned in section 18H(2).
- (2) Subsection (1) does not apply if the period referred to in that subsection ends at a time when the person is —
- (a) remanded in or committed to custody by an order of a court;
 - (b) serving a sentence of custody or detention;
 - (c) detained in a hospital; or
 - (d) detained under the Immigration Acts.
- (3) In that case section 18I(4) and (9) (duty to notify of release and to re-notify other information) apply when the person is released.⁷⁵

18K Method of notification and related matters

[P2008/28/50]

- (1) This section applies to notification under —
- (a) section 18H (initial notification);
 - (b) section 18I (notification of changes);
 - (c) section 18J (periodic re-notification); or
 - (d) section 18P (notification on return after absence from Island).
- (2) Notification must be made by the person —
- (a) attending at a police station; and
 - (b) making an oral notification to a police officer or to a person authorised for the purpose by the officer in charge of the station.
- (3) The notification must be acknowledged.
- (4) The acknowledgement must be in writing, and in such form as the Department may direct.

- (5) The person making the notification must, if requested to do so by the police officer or person to whom the notification is made, allow the officer or person to —
 - (a) take the person's fingerprints;
 - (b) photograph any part of the person; or
 - (c) do both these things,for the purpose of verifying the person's identity.⁷⁶

18L Travel outside Island

[P2008/28/52]

- (1) The Department may by regulations make provision requiring a person to whom the notification requirements apply who leaves the Island —
 - (a) to notify the police of the person's departure before the person leaves; and
 - (b) to notify the police of the person's return if the person subsequently returns to the Island.
- (2) Notification of departure must disclose —
 - (a) the date on which the person intends to leave the Island;
 - (b) the country (or, if there is more than one, the first country) to which the person will travel;
 - (c) the person's point of arrival (determined in accordance with the regulations) in that country;
 - (d) any other information required by the regulations.
- (3) Notification of return must disclose such information as is required by the regulations about the person's return to the Island.
- (4) Notification under this section must be given in accordance with the regulations.⁷⁷

Period for which notification requirements apply

18M Period for which notification requirements apply

[P2008/28/53]

- (1) The period for which the notification requirements apply is —
 - (a) 30 years in the case of a person who —
 - (i) is aged 17 or over at the time of conviction for the offence; and
 - (ii) receives in respect of the offence a sentence within subsection (2);
 - (b) 10 years in any other case.

- (2) The sentences in respect of which a 30 year period applies are —
 - (a) custody for life;
 - (b) detention during Her Majesty's pleasure.
- (3) The period begins with the day on which the person is dealt with for the offence.
- (4) If a person who is the subject of a finding within section 18F(b)(iii) (finding of disability) is subsequently tried for the offence, the period resulting from that finding ends —
 - (a) if the person is acquitted, at the conclusion of the trial;
 - (b) if the person is convicted, when the person is again dealt with in respect of the offence.
- (5) For the purposes of determining the length of the period —
 - (a) a person who has been sentenced in respect of 2 or more offences to which this Part applies to consecutive terms of custody is treated as if sentenced, in respect of each of the offences, to a term of custody equal to the aggregate of the terms; and
 - (b) a person who has been sentenced in respect of 2 or more such offences to concurrent terms of custody (X and Y) that overlap for a period (Z) is treated as if sentenced, in respect of each of the offences, to a term of custody equal to X plus Y minus Z.
- (6) In determining whether the period has expired, there shall be disregarded any period when the person was —
 - (a) remanded in or committed to custody by an order of a court;
 - (b) serving a sentence of custody or detention;
 - (c) detained in a hospital; or
 - (d) detained under the Immigration Acts.⁷⁸

Offences in relation to notification

18N Offences relating to notification

[P2008/28/54]

- (1) A person commits an offence who —
 - (a) fails without reasonable excuse to comply with —
 - section 18H (initial notification);
 - section 18I (notification of changes);
 - section 18J (periodic re-notification);
 - section 18K(5) (taking of fingerprints or photographs);
 - any regulations made under section 18L(1) (travel outside Island); or

- section 18P (notification on return after absence from Island); or
- (b) notifies to the police in purported compliance with —
- section 18H (initial notification);
- section 18I (notification of changes);
- section 18J (periodic re-notification);
- any regulations made under section 18L(1) (travel outside Island); or
- section 18P (notification on return after absence from Island),
- any information that the person knows to be false.
- (2) A person guilty of an offence under this section is liable —
- (a) on summary conviction, to custody for not more than 12 months, a fine not exceeding level 5 on the standard scale, or both;⁷⁹
- (b) on conviction on indictment, to custody for not more than 5 years, a fine, or both.
- (3) A person —
- (a) commits an offence under subsection (1)(a) on the day on which the person first fails without reasonable excuse to comply with —
- section 18H (initial notification);
- section 18I (notification of changes);
- section 18J (periodic re-notification);
- any regulations made under section 18L(1) (travel outside Island); or
- section 18P (notification on return after absence from Island); and
- (b) continues to commit it throughout any period during which the failure continues.

But a person must not be prosecuted under subsection (1) more than once in respect of the same failure.⁸⁰

18O Effect of absence from the Island

[P2008/28/55]

- (1) If a person to whom the notification requirements apply is absent from the Island for any period the following provisions apply.
- (2) During the period of absence the period for which the notification requirements apply continues to run.
- (3) The period of absence does not affect the obligation under section 18H (initial notification).

- (4) However, section 18H does not apply if —
 - (a) the period of absence begins before the end of the period within which notification must be made under that section; and
 - (b) the person's absence results from the person's removal from the Island.
- (5) Section 18I (notification of changes) —
 - (a) applies in relation to an event that occurs before the period of absence; but
 - (b) does not apply in relation to an event that occurs during the period of absence.

Paragraph (a) is subject to subsection (6).

- (6) Section 18I does not apply in relation to an event that occurs before the period of absence if —
 - (a) the period of absence begins before the end of the period within which notification must be made under that section; and
 - (b) the person's absence results from the person's removal from the Island.
- (7) Section 18J (periodic re-notification) does not apply if the period referred to in subsection (1) of that section ends during the period of absence.
- (8) Section 18M(6) (disregard of period of custody etc) applies in relation to the period of absence as if it referred to any period when the person was —
 - (a) remanded in or committed to custody by an order of a court outside the Island;
 - (b) serving a sentence of custody, imprisonment or detention imposed by such a court;
 - (c) detained in a hospital pursuant to an order of such a court that is equivalent to a hospital order; or
 - (d) subject to a form of detention outside the Island that is equivalent to detention under the Immigration Acts.
- (9) References in this section and section 18P to a person's removal from the Island include —
 - (a) the person's removal from the Island in accordance with the Immigration Acts;
 - (b) the person's extradition from the Island;
 - (c) the person's transfer from the Island to another country pursuant to a warrant under section 1 of the Repatriation of Prisoners Act 1984 (of Parliament), as that Act has effect in the Island;
 - (d) the person's exclusion by order under section 1 of the *Criminal Justice (Exclusion of Non-Resident Offenders) Act 1998*; or
 - (e) the person's transfer to a prison outside the Island.⁸¹

18P Notification on return after absence from Island

[P2008/28/56]

- (1) This section applies if, before the end of the period for which the notification requirements apply, a person to whom the requirements apply returns to the Island after a period of absence and —
 - (a) the person was not required to make a notification under section 18H (initial notification);
 - (b) there has been a change to any of the information last notified to the police in accordance with —
 - (i) section 18H;
 - (ii) section 18I (notification of changes);
 - (iii) section 18J (periodic re-notification); or
 - (iv) this section; or
 - (c) the period referred to in section 18J(1) (period after which re-notification required) ended during the period of absence.
- (2) The person must notify or (as the case may be) re-notify to the police the information mentioned in section 18H(2) within the period of 3 days beginning with the day of return.
- (3) In determining the period within which notification is to be made under this section, there shall be disregarded any time when the person is —
 - (a) remanded in or committed to custody by an order of a court;
 - (b) serving a sentence of custody or detention;
 - (c) detained in a hospital; or
 - (d) detained under the Immigration Acts.
- (4) This section does not apply if —
 - (a) the person subsequently leaves the Island;
 - (b) the period of absence begins before the end of the period within which notification must be made under this section; and
 - (c) the person's absence results from the person's removal from the Island.
- (5) The obligation under this section does not affect any obligation to notify information under section 18L(3) (regulations requiring notification of return).⁸²

*Supplementary provisions***18Q Application of notification requirements to persons dealt with outside**

Island

[P2008/28/57]

- (1) The notification requirements of this Part (as adapted by section 18T) apply to persons who have been dealt with outside the Island in respect of a corresponding offence if section 18S is satisfied.⁸³

18R Corresponding offences

[P2008/28/Sch 4 para 2]

- (1) In this Part, a “**corresponding offence**” means an act that —
 - (a) constituted an offence under the law in force in a country outside the Island; and
 - (b) corresponds to an offence to which this Part applies.
- (2) For this purpose an act punishable under the law in force in a country outside the Island is regarded as constituting an offence under that law however it is described in that law.
- (3) An act corresponds to an offence to which this Part applies if —
 - (a) it would have constituted an offence to which this Part applies by virtue of section 18B if it had been done in the Island; or
 - (b) it was, or took place in the course of, an act of terrorism or was done for the purposes of terrorism.
- (4) The condition in sub-section (3)(a) or (b) is to be taken to be met unless —
 - (a) the defendant serves on the applicant, not later than rules of court may provide, a notice —
 - (i) stating that, on the facts as alleged with respect to the act concerned, the condition is not in the defendant’s opinion met;
 - (ii) showing the defendant’s grounds for that opinion; and
 - (iii) requiring the applicant to prove that the condition is met; or
 - (b) the court permits the defendant to require the applicant to prove that the condition is met without service of such a notice.⁸⁴

18S Conditions for application of notification requirements to persons dealt with outside Island

[P2008/28/Sch 4 para 3]

- (1) The following conditions must be satisfied for the notification requirements of this Part to apply in respect of a person.
- (2) The first condition is that under the law in force in a country outside the Island —

- (a) the person has been convicted of a corresponding offence and has received in respect of the offence a sentence equivalent to a sentence mentioned in section 18F(a); or
 - (b) a court exercising jurisdiction under that law has, in respect of a corresponding offence —
 - (i) convicted the person or made a finding in relation to the person equivalent to a finding mentioned in section 18F(b)(ii) or (iii) (finding of insanity or disability); and
 - (ii) made the person subject to an order equivalent to a hospital order.
- (3) This condition is not met if there was a flagrant denial of the person's right to a fair trial.
- (4) The second condition is that —
 - (a) the sentence was imposed or order made after the commencement of this Part; or
 - (b) the sentence was imposed or order made before the commencement of this Part and immediately before that time the person —
 - (i) was in custody or detained in pursuance of the sentence or order;
 - (ii) would have been in custody or detained but for being unlawfully at large or otherwise unlawfully absent, lawfully absent on a temporary basis or on bail pending an appeal; or
 - (iii) had been released on licence, or was subject to an equivalent form of supervision, having served the whole or part of a sentence of custody for the offence.
- (5) The third condition is that the period for which the notification requirements would apply in respect of the offence (in accordance with section 18M as modified by section 18T(d)) has not expired.⁸⁵

18T Adaptations of provisions of this Part in relation to proceedings outside Island

[P2008/28/Sch 4, para 8]

The provisions of this Part have effect with the following adaptations in relation to proceedings and cases outside the Island where the notification requirements apply —

- (a) in section 18W(1) (references to dealing with an offence) for “being sentenced, or made subject to a hospital order” substitute “being made subject by the court outside the Island to a sentence or order within section 18S(2)(a) or (b)”;

- (b) in section 18W(2) (references to time when person dealt with for an offence) for “by a court of summary jurisdiction or the Court of General Gaol Delivery” substitute “by the court of first instance outside the Island”;
- (c) for the purposes of section 18H (initial notification) the period within which notification is to be made is within 2 days —
 - (i) beginning with the day on which the person arrives in the Island; or
 - (ii) of the commencement of this Part if the person has been in the Island for more than 2 days;
- (d) in section 18M (period for which notification requirements apply) a reference to a sentence or order of any description is to be read as a reference to an equivalent sentence or order of the court outside the Island.⁸⁶

18U Travel restriction orders

[P2008/28/58]

Schedule 4A makes provision for travel restriction orders prohibiting persons to whom the notification requirements apply from travelling from the Island —

- (a) to a country named or described in the order;
- (b) to any country other than a country named or described in the order; or
- (c) to any country.⁸⁷

18V Interpretation for Part IIIA

[P2008/28/60]

In this Part —

“**country**” includes a territory;

“**detained in a hospital**” means detained in a hospital under Part 3 of the *Mental Health Act 1998*;

“**home address**” means, in relation to a person —

- (a) the address of the person’s sole or main residence in the Island; or
- (b) where the person has no such residence, the address or location of a place in the Island where the person can regularly be found and, if there is more than one such place, such one of those places as the person may select;

“**hospital order**” means a hospital order within the meaning of the *Mental Health Act 1998*;

“**Immigration Acts**” means any of the Acts mentioned in section 64(2) of the Immigration, Asylum and Nationality Act 2006, of Parliament (to the extent that those acts have effect in the Island);

“**photograph**” includes any process by means of which an image may be produced;

“**prescribed**” means prescribed by regulations made by the Department;

“**release**” from custody or detention includes release on licence but not temporary release.⁸⁸

18W References to person being “dealt with” for an offence

[P2008/28/61]

- (1) References in this Part to a person’s being dealt with for or in respect of an offence are to his or her being sentenced, or made subject to a hospital order, in respect of the offence.

References in this Part to an offence being dealt with are to a person being dealt with in respect of the offence.

- (2) Subject to the following provisions of this section, references in this Part to the time at which a person is dealt with for an offence are to the time at which they are first dealt with by a court of summary jurisdiction or the Court of General Gaol Delivery.

This is referred to below as “the original decision”.

- (3) Where the original decision is varied (on appeal or otherwise), then —
- (a) if the result is that the conditions for application of the notification requirements to a person in respect of an offence cease to be met (and paragraph (c) does not apply), the notification requirements are treated as never having applied to that person in respect of that offence;
 - (b) if the result is that the conditions for application of the notification requirements to a person in respect of an offence are met where they were not previously met (and paragraph (c) does not apply) —
 - (i) the person is treated as dealt with for the offence when the variation takes place; and
 - (ii) the notification requirements apply accordingly;
 - (c) if —
 - (i) a conviction of, or finding in relation to, a different offence is substituted; and
 - (ii) the conditions for application of the notification requirements were met in respect of the original offence and are also met in respect of the substituted offence,the person is treated as if he or she had been dealt with for the substituted offence at the time of the original decision;

- (d) if the sentence is varied so as to become one by virtue of which the notification requirements would apply for a different period, the period for which those requirements apply shall be determined as if the sentence as varied had been imposed at the time of the original decision;
 - (e) in any other case, the variation is disregarded.
- (4) For the purposes of —
 - (a) section 18E(a) (persons subject to notification requirements: age when dealt with for offence);
 - (b) section 18G(2) (effect of order reducing term or period triggering notification requirements);
 - (c) section 18M(4)(b) (period for which notification requirements apply: ending of period resulting from finding of disability etc where person subsequently tried); and
 - (d) paragraph 2(3) of Schedule 4A (conditions for making travel restriction order: behaviour since offence dealt with),

a person is treated as dealt with at the time of the original decision and any subsequent variation of the decision is disregarded.
- (5) For the purposes of —
 - (a) section 18D (application of Part to offences dealt with before commencement); and
 - (b) paragraph 2(4) of Schedule 4A (conditions for making travel restriction order where offence dealt with before commencement),

a person is dealt with for an offence before the commencement of this Part if the time of the original decision falls before the commencement of this Part.

Where in such a case subsection (3) applies for the purposes of any provision of this Part, that subsection has effect as if the provisions of this Part had been in force at all material times.
- (6) In section 18H(5) (adaptation of initial notification requirements in case of offence dealt with before commencement) —
 - (a) the reference in the opening words to an offence dealt with before the commencement of this Part is to an offence where the time of the original decision falls before the commencement of this Part; and
 - (b) the reference in the closing words to when the offence is dealt with has the same meaning as in subsection (1) of that section.
- (7) References in this section to the variation of a decision include any proceedings by which the decision is altered, set aside or quashed, or in which a further decision is come to following the setting aside or quashing of the decision.⁸⁹

PART IV – TERRORIST INVESTIGATIONS

Interpretation

19 Terrorist investigation

[P2000/11/32]

In this Act “**terrorist investigation**” means an investigation of —

- (a) the commission, preparation or instigation of acts of terrorism,
- (b) an act which appears to have been done for the purposes of terrorism,
- (c) the resources of a terrorist organisation, or⁹⁰
- (d) the commission, preparation or instigation of an offence under this Act.

Cordons

20 Cordoned areas

[P2000/11/33]

- (1) An area is a cordoned area for the purposes of this Act if it is designated under this section.
- (2) A designation may be made only if the person making it considers it expedient for the purposes of a terrorist investigation.
- (3) If a designation is made orally, the person making it shall confirm it in writing as soon as is reasonably practicable.
- (4) The person making a designation shall arrange for the demarcation of the cordoned area, so far as is reasonably practicable —
 - (a) by means of tape marked with the word “police”, or
 - (b) in such other manner as a constable considers appropriate.

21 Power to designate

[P2000/11/34]

- (1) Subject to subsection (2), a designation under section 20 may only be made by a police officer who is of at least the rank of chief inspector.
- (2) A constable who is not of the rank required by subsection (1) may make a designation if he considers it necessary by reason of urgency.
- (3) Where a constable makes a designation in reliance on subsection (2) he shall as soon as is reasonably practicable —
 - (a) make a written record of the time at which the designation was made, and

- (b) ensure that a police officer of at least the rank of chief inspector is informed.
- (4) An officer who is informed of a designation in accordance with subsection (3)(b) —
 - (a) shall confirm the designation or cancel it with effect from such time as he may direct, and
 - (b) shall, if he cancels the designation, make a written record of the cancellation and the reason for it.

22 Duration

[P2000/11/35]

- (1) A designation under section 20 has effect, subject to subsections (2) to (5), during the period —
 - (a) beginning at the time when it is made, and
 - (b) ending with a date or at a time specified in the designation.
- (2) The date or time specified under subsection (1)(b) must not occur after the end of the period of 14 days beginning with the day on which the designation is made.
- (3) The period during which a designation has effect may be extended in writing from time to time by —
 - (a) the person who made it, or
 - (b) a person who could have made it (otherwise than by virtue of section 21(2)).
- (4) An extension shall specify the additional period during which the designation is to have effect.
- (5) A designation shall not have effect after the end of the period of 28 days beginning with the day on which it is made.

23 Police powers

[P2000/11/36]

- (1) A constable in uniform may —
 - (a) order a person in a cordoned area to leave it immediately;
 - (b) order a person immediately to leave premises which are wholly or partly in or adjacent to a cordoned area;
 - (c) order the driver or person in charge of a vehicle in a cordoned area to move it from the area immediately;
 - (d) arrange for the removal of a vehicle from a cordoned area;
 - (e) arrange for the movement of a vehicle within a cordoned area;
 - (f) prohibit or restrict access to a cordoned area by pedestrians or vehicles.

- (2) A person commits an offence if he fails to comply with an order, prohibition or restriction imposed by virtue of subsection (1).
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for his failure.
- (4) A person guilty of an offence under subsection (2) shall be liable on summary conviction to custody for a term not exceeding 3 months, or a fine not exceeding level 4 on the standard scale, or to both.⁹¹

Information and evidence

24 Powers

[P2000/11/37]

Schedule 5 (power to obtain information or evidence, etc.) shall have effect.⁹²

25 Financial information

[P2000/11/38]

Schedule 6 (financial information) shall have effect.

26 Information or evidence about acts of terrorism⁹³

[P2001/24/117]

- (1) This section applies where a person has information or evidence which he knows or believes might be of material assistance —
 - (a) in preventing the commission by another person of an act of terrorism, or
 - (b) in securing the apprehension, prosecution or conviction of another person, in the Island, for an offence involving the commission, preparation or instigation of an act of terrorism.⁹⁴
- (2) The person commits an offence if he does not disclose the information or evidence as soon as reasonably practicable in accordance with subsection (3).⁹⁵
- (3) Disclosure is in accordance with this subsection if it is made to a constable.
- (4) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for not making the disclosure.
- (5) A person guilty of an offence under this section shall be liable
 - (a) on conviction on information, to custody for a term not exceeding 5 years, or to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, or to a fine not exceeding level 5 on the standard scale or to both.⁹⁶

- (6) Proceedings for an offence under this section may be taken, and the offence may for the purposes of those proceedings be treated as having been committed, in any place where the person to be charged is or has at any time been since he first knew or believed that the information or evidence might be of material assistance as mentioned in subsection (1).⁹⁷

27 Disclosure to prejudice terrorist investigations⁹⁸

[P2000/11/39]

- (1) Subsection (2) applies where a person knows or has reasonable cause to suspect that a constable is conducting or proposes to conduct a terrorist investigation.
- (2) The person commits an offence if he —
 - (a) discloses to another anything which is likely to prejudice the investigation, or
 - (b) interferes with material which is likely to be relevant to the investigation.
- (3) [Repealed]⁹⁹
- (4) [Repealed]¹⁰⁰
- (5) It is a defence for a person charged with an offence under subsection (2) to prove —
 - (a) that he did not know and had no reasonable cause to suspect that the disclosure or interference was likely to affect a terrorist investigation, or
 - (b) that he had a reasonable excuse for the disclosure or interference, or
 - (c) that, in the case of an offence under paragraph (a) of subsection (2), the disclosure is of a matter within section 15ZA(1) or (3) (tipping off: regulated sector) and the information on which the disclosure is based came to the person in the course of a business in the regulated sector.^{101 102}
- (6) Subsection (2) does not apply to a disclosure which is made by a professional legal adviser —
 - (a) to his client or to his client's representative in connection with the provision of legal advice by the adviser to the client and not with a view to furthering a criminal purpose, or
 - (b) to any person for the purpose of actual or contemplated legal proceedings and not with a view to furthering a criminal purpose.¹⁰³
- (7) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on indictment, to custody for a term not exceeding 5 years, to a fine or to both, or

- (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.¹⁰⁴
- (8) For the purposes of this section —
 - (a) a reference to conducting a terrorist investigation includes a reference to taking part in the conduct of, or assisting, a terrorist investigation, and
 - (b) a person interferes with material if he falsifies it, conceals it, destroys it or disposes of it, or if he causes or permits another to do any of those things.

PART V – COUNTER-TERRORIST POWERS

Port controls

28 Port controls

[P2000/11/53]

- (1) Schedule 7 (port controls) shall have effect.
- (2) The powers conferred by Schedule 7 shall be exercisable notwithstanding the rights conferred by —
 - (a) section 1 of the Immigration Act (general principles regulating entry into and staying in the Island;
 - (b) the *Residence Act 2001* (regulation of residence in the Island).

Suspected terrorists

29 Terrorist: interpretation —

[P2000/11/40]

- (1) In this Part, “**terrorist**” means a person who —
 - (a) has committed an offence under this Act, or¹⁰⁵
 - (b) is or has been concerned in the commission, preparation or instigation of acts of terrorism.
- (2) The reference in subsection (1)(b) to a person who has been concerned in the commission, preparation or instigation of acts of terrorism includes a reference to a person who has been, whether before or after the passing of this Act, concerned in the commission, preparation or instigation of acts of terrorism within the meaning given by section 1.

30 Arrest without warrant

[P2000/11/41]

- (1) A constable may arrest without a warrant a person whom he reasonably suspects to be a terrorist.
- (2) Where a person is arrested under this section the provisions of Schedule 8 (detention: treatment, review and extension) shall apply.
- (3) Subject to subsections (4) to (7), a person detained under this section shall (unless detained under any other power) be released not later than the end of the period of 48 hours beginning —
 - (a) with the time of his arrest under this section, or
 - (b) if he was being detained under Schedule 7 when he was arrested under this section, with the time when his examination under that Schedule began.
- (4) If on a review of a person's detention under Part II of Schedule 8 the review officer does not authorise continued detention, the person shall (unless detained in accordance with subsection (5) or (6) or under any other power) be released.
- (5) Where a police officer intends to make an application for a warrant under paragraph 25 of Schedule 8 extending a person's detention, the person may be detained pending the making of the application.
- (6) Where an application has been made under paragraph 25 or 32 of Schedule 8 in respect of a person's detention, he may be detained pending the conclusion of proceedings on the application.
- (7) Where an application under paragraph 25 or 32 of Schedule 8 is granted in respect of a person's detention, he may be detained, subject to paragraph 33 of that Schedule, during the period specified in the warrant.
- (8) The refusal of an application in respect of a person's detention under paragraph 25 or 32 of Schedule 8 shall not prevent his continued detention in accordance with this section.

31 Search of premises

[P2000/11/42]

- (1) A justice of the peace may on the application of a constable issue a warrant in relation to specified premises if he is satisfied that there are reasonable grounds for suspecting that a person whom the constable reasonably suspects to be a person falling within section 29(1)(b) is to be found there.
- (2) A warrant under this section shall authorise any constable to enter and search the specified premises for the purpose of arresting the person referred to in subsection (1) under section 30.

31A Search, seizure and forfeiture of terrorist publications

[P2006/11/28]

- (1) If a justice of the peace is satisfied that there are reasonable grounds for suspecting that articles to which this section applies are likely to be found on any premises, the justice of the peace may issue a warrant authorising a constable —
 - (a) to enter and search the premises; and
 - (b) to seize anything found there which the constable has reason to believe is such an article.
- (2) This section applies to an article if —
 - (a) it is likely to be the subject of conduct falling within subsection (2)(a) to (e) of section 47B; and
 - (b) it would fall for the purposes of that section to be treated, in the context of the conduct to which it is likely to be subject, as a terrorist publication.
- (3) A person exercising a power conferred by a warrant under this section may use such force as is reasonable in the circumstances for exercising that power.
- (4) An article seized under the authority of a warrant issued under this section —
 - (a) may be removed by a constable to such place as the constable thinks fit; and
 - (b) must be retained there in the custody of a constable until returned or otherwise disposed of in accordance with this Act.
- (5) An article to which this section applies which is seized under the authority of a warrant issued under this section on an application made by or on behalf of the Attorney General —
 - (a) shall be liable to forfeiture; and
 - (b) if forfeited, may be destroyed or otherwise disposed of by a constable in whatever manner he or she thinks fit.
- (6) Schedule 8A (which makes provision about the forfeiture of articles to which this section applies) has effect.
- (7) In this section “forfeited” means treated or condemned as forfeited under Schedule 8A.¹⁰⁶

32 Search of persons

[P2000/11/43]

- (1) A constable may stop and search a person whom he reasonably suspects to be a terrorist to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

- (2) A constable may search a person arrested under section 30 to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.
- (3) A search of a person under this section must be carried out by someone of the same sex.
- (4) A constable may seize and retain anything which he discovers in the course of a search of a person under subsection (1) or (2) and which he reasonably suspects may constitute evidence that the person is a terrorist.
- (5) Subsection (6) applies if a constable, in exercising the power under subsection (1) to stop a person whom the constable reasonably suspects to be a terrorist, stops a vehicle (see section 66(2)).¹⁰⁷
- (6) The constable —
 - (a) may search the vehicle and anything in or on it to discover whether there is anything which may constitute evidence that the person concerned is a terrorist, and
 - (b) may seize and retain anything which the constable —
 - (i) discovers in the course of such a search, and
 - (ii) reasonably suspects may constitute evidence that the person is a terrorist.¹⁰⁸
- (7) Nothing in subsection (6) confers a power to search any person but the power to search in that subsection is in addition to the power in subsection (1) to search a person whom the constable reasonably suspects to be a terrorist.¹⁰⁹

32AA Search of vehicles

- (1) Subsection (2) applies if a constable reasonably suspects that a vehicle is being used for the purposes of terrorism.
- (2) The constable may stop and search —
 - (a) the vehicle;
 - (b) the driver of the vehicle;
 - (c) a passenger in the vehicle; and
 - (d) anything in or on the vehicle or carried by the driver or a passenger, to discover whether there is anything which may constitute evidence that the vehicle is being used for the purposes of terrorism.
- (3) A constable may seize and retain anything that the constable —
 - (a) discovers in the course of such a search; and
 - (b) reasonably suspects may constitute evidence that the vehicle is being used for the purposes of terrorism.

- (4) In this section “driver”, in relation to an aircraft, hovercraft or vessel, means the captain, pilot or other person with control of the aircraft, hovercraft or vessel or any member of its crew and, in relation to a train or tram, includes any member of its crew.¹¹⁰

Power to remove documents for examination¹¹¹

32A Application of power

[P2008/28/1]

- (1) This section applies to a search under any of the following provisions —
- (a) section 31A (search for terrorist publications);
 - (b) section 32(1) (search of suspected terrorist);
 - (c) section 32(2) (search of person arrested under section 30 on suspicion of being a terrorist);
 - (d) paragraph 1, 3, 10 or 14 of Schedule 5 (terrorist investigations).
- (2) A constable who carries out a search to which this section applies may, for the purpose of ascertaining whether a document is one that may be seized, remove the document to another place for examination and retain it there until the examination is completed.
- (3) Where a constable carrying out a search to which this section applies has power to remove a document by virtue of this section, and the document —
- (a) consists of information that is stored in electronic form; and
 - (b) is accessible from the premises being searched,
- the constable may require the document to be produced in a form in which it can be taken away, and in which it is visible and legible or from which it can readily be produced in a visible and legible form.
- (4) A constable has the same powers of seizure in relation to a document removed under this section as the constable would have if it had not been removed (and if anything discovered on examination after removal had been discovered without it having been removed).¹¹²

32B Offence of obstruction

[P2008/28/2]

A person who wilfully obstructs a constable in the exercise of the power conferred by section 32A commits an offence and is liable, on summary conviction, to custody for not more than 12 months, a fine not exceeding level 5 on the standard scale, or both.¹¹³

32C Items subject to legal privilege

[P2008/28/3]

- (1) Section 32A does not authorise a constable to remove a document if the constable has reasonable cause to believe —
 - (a) it is an item subject to legal privilege; or
 - (b) it has an item subject to legal privilege comprised in it.
- (2) Subsection (1)(b) does not prevent the removal of a document if it is not reasonably practicable for the item subject to legal privilege to be separated from the rest of the document without prejudicing any use of the rest of the document that would be lawful if it were subsequently seized.
- (3) If, after a document has been removed under section 32A, it is discovered that —
 - (a) it is an item subject to legal privilege; or
 - (b) it has an item subject to legal privilege comprised in it,the document must be returned forthwith.
- (4) Subsection (3)(b) does not require the return of a document if it is not reasonably practicable for the item subject to legal privilege to be separated from the rest of the document without prejudicing any use of the rest of the document that would be lawful if it were subsequently seized.
- (5) Where an item subject to legal privilege is removed under subsection (2) or retained under subsection (4), it must not be examined or put to any other use except to the extent necessary for facilitating the examination of the rest of the document.
- (6) For the purposes of this section “item subject to legal privilege” has the same meaning as in section 13 of the *Police Powers and Procedures Act 1998*.¹¹⁴

32D Record of removal

[P2008/28/4]

- (1) A constable who removes a document under section 32A must make a written record of the removal.
- (2) The record must be made as soon as is reasonably practicable and in any event within the period of 24 hours beginning with the time when the document was removed.
- (3) The record must —
 - (a) describe the document;
 - (b) specify the object of the removal;

- (c) where the document was found in the course of a search of a person, state the person's name (if known);
 - (d) where the document was found in the course of a search of any premises, state the address of the premises where the document was found;
 - (e) where the document was found in the course of a search of any premises, state the name (if known) of —
 - (i) any person who, when the record is made, appears to the constable to have been the occupier of the premises when the document was found; and
 - (ii) any person who, when the record is made, appears to the constable to have had custody or control of the document when it was found; and
 - (f) state the date and time when the document was removed.
- (4) If, in a case where the document was found in the course of a search of a person, the constable does not know the person's name, the record must include a description of the person.
- (5) If, in a case where the document was found in the course of a search of any premises, the constable does not know the name of a person mentioned in subsection (3)(e) but is able to provide a description of that person, the record must include such a description.
- (6) The record must identify the constable by reference to the constable's police number.
- (7) The following persons are entitled, on a request made to the constable, to a copy of the record made under this section —
- (a) where the document was found in the course of a search of a person, that person; and
 - (b) where the document was found in the course of a search of any premises —
 - (i) the occupier of the premises when it was found; and
 - (ii) any person who had custody or control of the document when it was found.
- (8) The constable must provide the copy within a reasonable time from the making of the request.
- (9) If the document is found in the course of a search under a warrant, the constable must make an endorsement on the warrant stating that the document has been removed under section 32A.
- (10) In the application of this section in relation to the search of a vehicle, the reference to the address of the premises is to the location of the vehicle together with its registration number (if any).¹¹⁵

32E Retention of documents

[P2008/28/5]

- (1) A document may not be retained by virtue of section 32A for more than 48 hours without further authorisation.
- (2) A constable of at least the rank of chief inspector may authorise the retention of the document for a further period or periods if satisfied that —
 - (a) the examination of the document is being carried out expeditiously; and
 - (b) it is necessary to continue the examination for the purpose of ascertaining whether the document is one that may be seized.
- (3) This does not permit the retention of a document after the end of the period of 96 hours beginning with the time when it was removed for examination.¹¹⁶

32F Access to documents

[P2008/28/6]

- (1) Where —
 - (a) a document is retained by virtue of section 32E; and
 - (b) a request for access to the document is made to the officer in charge of the investigation by a person within subsection (3),the officer must grant that person access to the document, under the supervision of a constable, subject to subsection (4).
- (2) Where —
 - (a) a document is retained by virtue of section 32E; and
 - (b) a request for a copy of the document is made to the officer in charge of the investigation by a person within subsection (3),that person must be provided with a copy of the document within a reasonable time from the making of the request, subject to subsection (4).
- (3) The persons entitled to make a request under subsection (1) or (2) are —
 - (a) where the document was found in the course of a search of a person, that person;
 - (b) where the document was found in the course of a search of any premises —
 - (i) the occupier of the premises when it was found; and
 - (ii) any person who had custody or control of the document when it was found; and
 - (c) a person acting on behalf of a person within paragraph (a) or (b).

- (4) The officer in charge of the investigation may refuse access to the document, or (as the case may be) refuse to provide a copy of it, if the officer has reasonable grounds for believing that to do so —
 - (a) would prejudice any investigation for the purposes of which —
 - (i) the original search was carried out; or
 - (ii) the document was removed or is being retained;
 - (b) would prejudice the investigation of any offence;
 - (c) would prejudice any criminal proceedings that may be brought as the result of an investigation within paragraph (a) or (b); or
 - (d) would facilitate the commission of an offence.
- (5) In this section —
 - “officer in charge of the investigation” means the officer in charge of the investigation for the purposes of which the document is being retained; and
 - “original search” means the search in the course of which the document was removed.¹¹⁷

32G Photographing and copying of documents

[P2008/28/7]

- (1) Where a document is removed under section 32A it must not be photographed or copied, except that —
 - (a) a document may be copied for the purpose of providing a copy in response to a request under section 32F(2); and
 - (b) a document consisting of information stored in electronic form may be copied for the purpose of producing it in a visible and legible form.
- (2) Where the original document is returned, any copy under subsection (1)(b) must —
 - (a) in the case of a copy in electronic form, be destroyed or made inaccessible as soon as is reasonably practicable; and
 - (b) in any other case, be returned at the same time as the original document is returned.
- (3) The following are entitled, on a request made to the Chief Constable, to a certificate that subsection (2) has been complied with —
 - (a) where the document was found in the course of a search of a person, that person;
 - (b) where the document was found in the course of a search of any premises —
 - (i) the occupier of the premises when it was found; and

- (ii) any person who had custody or control of the document when it was found.
- (4) The certificate must be issued by the Chief Constable, or a person authorised by or on behalf of the Chief Constable, not later than the end of the period of 3 months beginning with the day on which the request is made.¹¹⁸

32H Return of documents

[P2008/28/8]

- (1) Where a document removed under section 32A is required to be returned, it must be returned —
 - (a) where the document was found in the course of a search of a person, to that person;
 - (b) where the document was found in the course of a search of any premises, to the occupier of the premises when it was found.
- (2) Subsection (1) does not apply where a person who is required to return the document is satisfied that another person has a better right to it; and in such a case it must be returned —
 - (a) to that other person; or
 - (b) to whoever appears to the person required to return the document to have the best right to it.
- (3) Where different persons claim to be entitled to the return of the document, it may be retained for as long as is reasonably necessary for the determination of the person to whom it must be returned.
- (4) This section also applies in relation to a copy of a document that is required to be returned at the same time as the original; and in such a case references to the document in paragraphs (a) and (b) of subsection (1) are to the original.¹¹⁹

32I Power to remove documents: supplementary provisions

[P2008/28/9]

- (1) In sections 32A to 32H “**document**” includes any record and, in particular, includes information stored in electronic form.
- (2) In the application of those sections in relation to the search of a vehicle references to the occupier of the premises are to the person in charge of the vehicle.¹²⁰

*Powers to stop and search in specified locations¹²¹***33 Searches in specified areas or places**

- (1) The Chief Constable may give an authorisation under subsection (2) or (3) in relation to a specified area or place if he or she —
 - (a) reasonably suspects that an act of terrorism will take place; and
 - (b) reasonably considers that —
 - (i) the authorisation is necessary to prevent such an act;
 - (ii) the specified area or place is no greater than is necessary to prevent such an act; and
 - (iii) the duration of the authorisation is no longer than is necessary to prevent such an act.
- (2) An authorisation under this subsection authorises any constable in uniform to stop a vehicle in the specified area or place and to search —
 - (a) the vehicle;
 - (b) the driver of the vehicle;
 - (c) a passenger in the vehicle; and
 - (d) anything in or on the vehicle or carried by the driver or a passenger.
- (3) An authorisation under this subsection authorises any constable in uniform to stop a pedestrian in the specified area or place and to search —
 - (a) the pedestrian; and
 - (b) anything carried by the pedestrian.
- (4) A constable in uniform may exercise the power conferred by an authorisation under subsection (2) or (3) only for the purpose of discovering whether there is anything which may constitute evidence that the vehicle concerned is being used for the purposes of terrorism or (as the case may be) that the person concerned is a person falling within section 29(1)(b).
- (5) But the power conferred by such an authorisation may be exercised whether or not the constable reasonably suspects that there is such evidence.
- (6) A constable may seize and retain anything that the constable —
 - (a) discovers in the course of a search under such an authorisation; and
 - (b) reasonably suspects may constitute evidence that the vehicle concerned is being used for the purposes of terrorism or (as the case may be) that the person concerned is a person falling within section 29(1)(b).
- (7) Schedule 8B (which makes supplementary provision about authorisations under this section) has effect.

- (8) In this section —
“driver” has the meaning given by section 32AA(4);
“specified” means specified in an authorisation.¹²²

*Search powers code*¹²³

34 Code of practice relating to sections 32, 32AA and 33

- (1) The Department must prepare a code of practice containing guidance about —
- (a) the exercise of the powers conferred by sections 32 and 32AA;
 - (b) the exercise of the powers to give an authorisation under section 33(2) or (3);
 - (c) the exercise of the powers conferred by such an authorisation and section 33(6); and
 - (d) such other matters in connection with the exercise of any of the powers mentioned in paragraphs (a) to (c) as the Department considers appropriate.
- (2) Such a code may make different provision for different purposes.
- (3) In the course of preparing such a code, the Department must consult such persons as it considers appropriate.¹²⁴

35 Issuing of code

- (1) The Department must lay before Tynwald —
- (a) a code of practice prepared under section 34, and
 - (b) a draft of an order providing for the code to come into operation.
- (2) The Department must make the order and issue the code if the draft of the order is approved by a resolution of Tynwald and the code as issued, including as altered or replaced from time to time, is known in this Act as the “**search powers code**”.
- (3) The Department must not make the order or issue the code unless the draft of the order is so approved.
- (4) The Department must prepare another code of practice under section 34 if —
- (a) the draft of the order is not so approved; and
 - (b) it considers that there is no realistic prospect that it will be so approved.
- (5) A code comes into operation in accordance with an order under this section.¹²⁵

36 Alteration or replacement of code

- (1) The Department —
 - (a) must keep the search powers code under review; and
 - (b) may prepare an alteration to the code or a replacement code.
- (2) Before preparing an alteration or a replacement code, the Department must consult such persons as it considers appropriate.
- (3) Section 35 (other than subsection (4)) applies to an alteration or a replacement code prepared under this section as it applies to a code prepared under section 34.¹²⁶

36A Publication and effect of code

- (1) The Department must publish the search powers code.
- (2) A constable must have regard to the search powers code when exercising any powers to which the code relates.
- (3) A failure on the part of a constable to act in accordance with any provision of the search powers code does not of itself make that person liable to criminal or civil proceedings.
- (4) A police officer shall be liable to disciplinary proceedings for a failure to comply with any provision of the search powers code.
- (5) The search powers code is admissible in evidence in any such proceedings.
- (6) A court or tribunal may, in particular, take into account a failure by a constable to have regard to the search powers code in determining a question in any such proceedings.¹²⁷

*Parking***37 Authorisations**

[P2000/11/48]

- (1) An authorisation under this section authorises any constable in uniform to prohibit or restrict the parking of vehicles on a road specified in the authorisation.
- (2) An authorisation may be given only if the Chief Constable considers it expedient for the prevention of acts of terrorism.
- (3) An authorisation may be given by the Chief Constable.
- (4) If an authorisation is given orally, the Chief Constable shall confirm it in writing as soon as is reasonably practicable.

38 Exercise of power

[P2000/11/49]

- (1) The power conferred by an authorisation under section 37 shall be exercised by placing a traffic sign on the road concerned.
- (2) A constable exercising the power conferred by an authorisation under section 37 may suspend a parking place.
- (3) Where a parking place is suspended under subsection (2), the suspension shall be treated as a statutory restriction imposed by virtue of section 37 for the purposes of section 2 of the *Local Government (Miscellaneous Provisions) Act 1984* (removal of vehicles illegally parked, etc.).

39 Duration of authorisation

[P2000/11/50]

- (1) An authorisation under section 37 has effect, subject to subsections (2) and (3), during the period specified in the authorisation.
- (2) The period specified shall not exceed 28 days.
- (3) An authorisation may be renewed in writing and subsections (1) and (2) shall apply as if a new authorisation were given on each occasion on which the authorisation is renewed.

40 Offences

[P2000/11/51]

- (1) A person commits an offence if he parks a vehicle in contravention of a prohibition or restriction imposed by virtue of section 37.
- (2) A person commits an offence if —
 - (a) he is the driver or other person in charge of a vehicle which has been permitted to remain at rest in contravention of any prohibition or restriction imposed by virtue of section 37, and
 - (b) he fails to move the vehicle when ordered to do so by a constable in uniform.
- (3) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for the act or omission in question.
- (4) Possession of a current disabled person's badge shall not itself constitute a reasonable excuse for the purposes of subsection (3).
- (5) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.¹²⁸
- (6) A person guilty of an offence under subsection (2) shall be liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 4 on the standard scale, or to both.¹²⁹

41 Interpretation

[P2000/11/52]

In sections 37 to 40 —

“**disabled person’s badge**” means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 28 of the *Road Traffic Regulation Act 1985*;

“**driver**” means, in relation to a vehicle which has been left on any road, the person who was driving it when it was left there;

“**parking**” means leaving a vehicle or permitting it to remain at rest;

“**traffic sign**” has the meaning given in section 38(1) of the *Road Traffic Regulation Act 1985*;

“**vehicle**” has the same meaning as in section 8(1) of the *Local Government (Miscellaneous Provisions) Act 1984*.

PART VI – MISCELLANEOUS TERRORIST OFFENCES*Terrorist offences***42 Weapons training**

[P2000/11/54]

- (1) A person commits an offence if he provides instruction or training in the making or use of —
 - (a) firearms,
 - (b) radioactive material or weapons designed or adapted for the discharge of any radioactive material,
 - (c) explosives, or
 - (d) chemical, biological or nuclear weapons.
- (2) A person commits an offence if he receives instruction or training in the making or use of —
 - (a) firearms,
 - (b) weapons designed or adapted for the discharge of any radioactive material,
 - (c) explosives, or
 - (d) chemical, biological or nuclear weapons.
- (3) A person commits an offence if he invites another to receive instruction or training and the receipt —
 - (a) would constitute an offence under subsection (2), or
 - (b) would constitute an offence under subsection (2) but for the fact that it is to take place outside the Island.

- (4) Subsection (3)(b) applies in respect of United Kingdom nationals and bodies incorporated under the law of the Island or any part of the United Kingdom.
- (5) For the purpose of subsections (1) and (3) —
 - (a) a reference to the provision of instruction includes a reference to making it available either generally or to one or more specific persons, and
 - (b) an invitation to receive instruction or training may be either general or addressed to one or more specific persons.
- (6) It is a defence for a person charged with an offence under this section in relation to instruction or training to prove that his action or involvement was wholly for a purpose other than assisting, preparing for or participating in terrorism.
- (7) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on information, to custody for a term not exceeding 10 years, to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.¹³⁰
- (8) to (10) [Repealed]¹³¹

43 Weapons training: interpretation

[P2000/11/55]

In section 42 —

“biological weapon” means a biological agent or toxin within the meaning of the Biological Weapons Act 1974 (an Act of Parliament) (as that Act has effect in the Island) in a form capable of use for hostile purposes or anything to which section 1(1)(b) of that Act applies,

“chemical weapon” has the meaning given by section 1 of the Chemical Weapons Act 1996 (an Act of Parliament) as that Act has effect in the Island, and

“radioactive material” means radioactive material capable of endangering life or causing harm to humans.

44 Directing terrorist organisation

[P2000/11/56]

- (1) A person commits an offence if he directs, at any level, the activities of an organisation which is concerned in the commission of acts of terrorism.
- (2) A person guilty of an offence under this section is liable on conviction on information to custody for life.

45 Possession for terrorist purposes

[P2000/11/57]

- (1) A person commits an offence if he possesses an article in circumstances which give rise to a reasonable suspicion that his possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism.
- (2) It is a defence for a person charged with an offence under this section to prove that his possession of the article was not for a purpose connected with the commission, preparation or instigation of an act of terrorism.
- (3) In proceedings for an offence under this section, if it is proved that an article —
 - (a) was on any premises at the same time as the accused, or
 - (b) was on premises of which the accused was the occupier or which he habitually used otherwise than as a member of the public,the court may assume that the accused possessed the article, unless he proves that he did not know of its presence on the premises or that he had no control over it.
- (4) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on information, to custody for a term not exceeding 15 years, to a fine or to both, or¹³²
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.¹³³

46 Collection of information

[P2000/11/58]

- (1) A person commits an offence if —
 - (a) he collects or makes a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism, or
 - (b) he possesses a document or record containing information of that kind.
- (2) In this section “record” includes a photographic or electronic record.
- (3) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his action or possession.
- (4) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on information, to custody for a term not exceeding 10 years, to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.¹³⁴

- (5) to (7) [Repealed]¹³⁵
- (8) Before making an order under subsection (5) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.
- (9) An order under subsection (5) shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

46A Eliciting, publishing or communicating information about members of armed forces etc

[P2000/11/58A]

- (1) A person commits an offence if he or she —
 - (a) elicits or attempts to elicit information about an individual who is or has been —
 - (i) a member of Her Majesty's forces;
 - (ii) a member of any of the British intelligence services; or
 - (iii) a constable,which is of a kind likely to be useful to a person committing or preparing an act of terrorism; or
 - (b) publishes or communicates any such information.
- (2) It is a defence for a person charged with an offence under this section to prove that he or she had a reasonable excuse for his or her action.
- (3) A person guilty of an offence under this section is liable —
 - (a) on conviction on indictment, to custody for not more than 10 years, a fine, or both;
 - (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding level 5 on the standard scale, or both.^{136 137}

Preparation of terrorist acts and terrorist training

46B Preparation of terrorist acts

[P2006/11/5]

- (1) A person commits an offence if, with the intention of —
 - (a) committing acts of terrorism; or
 - (b) assisting another to commit such acts,he or she engages in any conduct in preparation for giving effect to his or her intention.

- (2) It is irrelevant for the purposes of subsection (1) whether the intention and preparations relate to one or more particular acts of terrorism of a particular description or acts of terrorism generally.
- (3) A person who commits an offence under this section is liable, on conviction on information, to custody for life.¹³⁸

46C Training for terrorism

[P2006/11/6]

- (1) A person commits an offence if —
 - (a) he or she provides instruction or training in any of the skills mentioned in subsection (3); and
 - (b) at the time of providing the instruction or training, he or she knows that a person receiving it intends to use the skills in which he or she is being instructed or trained —
 - (i) for or in connection with the commission or preparation of acts of terrorism or Convention offences; or
 - (ii) for assisting the commission or preparation by others of such acts or offences.
- (2) A person commits an offence if —
 - (a) he or she receives instruction or training in any of the skills mentioned in subsection (3); and
 - (b) at the time of the instruction or training, he or she intends to use the skills in which he or she is being instructed or trained —
 - (i) for or in connection with the commission or preparation of acts of terrorism or Convention offences; or
 - (ii) for assisting the commission or preparation by others of such acts or offences.
- (3) The skills are —
 - (a) the making, handling or use of a noxious substance, or of substances of a description of such substances;
 - (b) the use of any method or technique for doing anything else that is capable of being done for the purposes of terrorism, in connection with the commission or preparation of an act of terrorism or Convention offence or in connection with assisting the commission or preparation by another of such an act or offence; and
 - (c) the design or adaptation for the purposes of terrorism, or in connection with the commission or preparation of an act of terrorism or Convention offence, of any method or technique for doing anything.
- (4) It is irrelevant for the purposes of subsections (1) and (2) —

- (a) whether any instruction or training that is provided is provided to one or more particular persons or generally;
 - (b) whether the acts or offences in relation to which a person intends to use skills in which he or she is instructed or trained consist of one or more particular acts of terrorism or Convention offences, acts of terrorism or Convention offences of a particular description or acts of terrorism or Convention offences generally; and
 - (c) whether assistance that a person intends to provide to others is intended to be provided to one or more particular persons or to one or more persons whose identities are not yet known.
- (5) A person who commits an offence under this section is liable —
- (a) on conviction on information, to custody for not more than 10 years, a fine, or both;
 - (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding level 5 on the standard scale, or both.¹³⁹
- (6) In this section —
- “noxious substance” means —
- (a) a dangerous substance within the meaning of paragraph 3 of Schedule 13; or
 - (b) any other substance which is hazardous or noxious or which may be or become hazardous or noxious only in certain circumstances;
- “substance” includes any natural or artificial substance (whatever its origin or method of production and whether in solid or liquid form or in the form of a gas or vapour) and any mixture of substances.¹⁴⁰

46D Attendance at a place used for terrorism training

[P2006/11/8]

- (1) A person commits an offence if —
- (a) he or she attends at any place, whether in the Island or elsewhere;
 - (b) while he or she is at that place, instruction or training of the type mentioned in section 42 or 46C is provided there;
 - (c) that instruction or training is provided there wholly or partly for purposes connected with the commission or preparation of acts of terrorism or Convention offences; and
 - (d) the requirements of subsection (2) are satisfied in relation to the person.
- (2) The requirements of this subsection are satisfied in relation to a person if —
- (a) he or she knows or believes that instruction or training is being provided there wholly or partly for purposes connected with the

- commission or preparation of acts of terrorism or Convention offences; or
- (b) a person attending at that place throughout the period of the person's attendance could not reasonably have failed to understand that instruction or training was being provided there wholly or partly for such purposes.
- (3) It is immaterial for the purposes of this section —
- (a) whether the person concerned receives the instruction or training personally; and
 - (b) whether the instruction or training is provided for purposes connected with one or more particular acts of terrorism or Convention offences, acts of terrorism or Convention offences of a particular description or acts of terrorism or Convention offences generally.
- (4) A person guilty of an offence under this section shall be liable —
- (a) on conviction on information, to custody for not more than 10 years, a fine, or both;
 - (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding level 5 on the standard scale, or both.¹⁴¹
- (5) References in this section to instruction or training being provided include references to its being made available.¹⁴²

Inciting terrorism overseas

47 Incitement

[P2000/11/59]

- (1) A person commits an offence if —
- (a) he incites another person to commit an act of terrorism wholly or partly outside the Island, and
 - (b) the act would, if committed in the Island, constitute one of the offences listed in subsection (2).
- (2) Those offences are —
- (a) murder,
 - (b) an offence under section 33 of the *Criminal Code 1872* (wounding with intent),
 - (c) an offence under section 38 or 39 of that Act (poison),
 - (d) an offence under section 43 or 44 of that Act (explosions), and
 - (e) an offence under section 1(2) of the *Criminal Damage Act 1981* (endangering life by damaging property).

- (3) A person guilty of an offence under this section shall be liable to any penalty to which he would be liable on conviction of the offence listed in subsection (2) which corresponds to the act which he incites.
- (4) For the purposes of subsection (1) it is immaterial whether or not the person incited is in the Island at the time of the incitement.
- (5) This section applies in respect of United Kingdom nationals and bodies incorporated under the law of the Island or any part of the United Kingdom.
- (6) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

*Incitement etc of terrorism*¹⁴³

47A Publishing statements in connection with terrorism

[P2006/11/1-4]

- (1) A person commits an offence if the person publishes or causes to be published a statement to the public —
 - (a) with the intent to incite the commission of acts of terrorism or Convention offences; and
 - (b) that increases the risk of one or more such offences being committed, whether or not the statement directly advocates the commission of such an offence.
- (2) Before instituting any proceedings under this section the Attorney General must certify that, in his or her opinion, the prosecution is —
 - (a) in the public interest; and
 - (b) proportionate to the harm or risk of harm caused by the action giving rise to the alleged offence.
- (3) In proceedings for an offence under this section it is a defence for the person to show —
 - (a) where it is not proved that the person intended the statement directly or indirectly to encourage or otherwise induce the commission, preparation or instigation of acts of terrorism or Convention offences —
 - (i) that the statement neither expressed his or her views nor had his or her endorsement (whether by virtue of section 47C or otherwise); and
 - (ii) that it was clear, in all the circumstances of the statement's publication, that it did not express his or her views and (apart from the possibility of the person having been given and failed to comply with a notice under subsection (3) of that section) did not have his or her endorsement; or

- (b) in any case that the statement is a proportionate exercise of the right to freedom of expression in a democratic society.
- (4) A person guilty of an offence under this section is liable —
 - (a) on conviction on information, to custody for not more than 7 years, a fine, or both;
 - (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding level 5 on the standard scale, or both.^{144 145}

47B Dissemination of terrorist publications

[P2006/11/2]

- (1) A person commits an offence if the person engages in conduct falling within subsection (2) and, at the time of doing so, intends to incite the commission, preparation or instigation of acts of terrorism or the provision of assistance in the commission or preparation of such acts.
- (2) For the purposes of this section a person engages in conduct falling within this subsection if he or she —
 - (a) distributes or circulates a terrorism publication;
 - (b) gives, sells or lends such a publication;
 - (c) offers such a publication for sale or loan;
 - (d) provides a service to others that enables them to obtain, read, listen to or look at such a publication, or to acquire it by means of a gift, sale or loan;
 - (e) transmits the contents of such a publication electronically; or
 - (f) has such a publication in his or her possession with a view to its becoming the subject of conduct falling within any of paragraphs (a) to (e).
- (3) For the purposes of this section a publication is a terrorism publication, in relation to conduct falling within subsection (2), if matter contained in it is likely to be understood, by some or all of the persons to whom it is or may become available as a consequence of that conduct, as incitement of the commission, preparation or instigation of acts of terrorism.
- (4) For the purposes of this section the question whether a publication is a terrorist publication in relation to particular conduct must be determined —
 - (a) as at the time of that conduct; and
 - (b) having regard both to the contents of the publication as a whole and to the circumstances in which that conduct occurs.
- (5) In subsection (1) references to the effect of a person's conduct in relation to a terrorist publication include references to an effect of the publication on one or more persons to whom it is or may become available as a consequence of that conduct.

- (6) It is irrelevant for the purposes of this section whether anything mentioned in subsections (1) to (3) is in relation to the commission, preparation or instigation of one or more particular acts of terrorism, or acts of terrorism of a particular description or of acts of terrorism generally.
- (7) For the purposes of this section it is also irrelevant, in relation to matter contained in any article whether any person —
- (a) is in fact induced by that matter to commit, prepare or instigate acts of terrorism; or
 - (b) in fact makes use of it in the commission or preparation of such acts.
- (8) In proceedings for an offence under this section against a person in respect of conduct to which subsection (9) applies, it is a defence for the person to show —
- (a) that the matter by reference to which the publication in question was a terrorist publication neither expressed his or her views nor had his or her endorsement (whether by virtue of section 47C or otherwise);
 - (b) that it was clear, in all the circumstances of the conduct, that that matter did not express his or her views and (apart from the possibility of his or her having been given and failed to comply with a notice under subsection (3) of that section) did not have his or her endorsement; or
 - (c) that the statement is a proportionate exercise of the right to freedom of expression in a democratic society.
- (9) This subsection applies to the conduct of a person to the extent that —
- (a) the publication to which his or her conduct related contained matter by reference to which it was a terrorist publication by virtue of subsection (3); and
 - (b) the person is not proved to have engaged in that conduct with the intention specified in subsection (1).
- (10) A person guilty of an offence under this section is liable —
- (a) on conviction on indictment, to custody for not more than 7 years, a fine, or both;
 - (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding level 5 on the standard scale, or both.¹⁴⁶
- (11) In this section —
- “lend” includes let on hire;
- “publication” means an article or record of any description that contains any of the following, or any combination of them —
- (a) matter to be read;

- (b) matter to be listened to;
- (c) matter to be looked at or watched.¹⁴⁷

47C Application of sections 47A and 47B to internet activity etc

[P2006/11/3]

- (1) This section applies for the purposes of sections 47A and 47B in relation to cases where —
 - (a) a statement is published or caused to be published in the course of, or in connection with, the provision or use of a service provided electronically; or
 - (b) conduct falling within section 47B(2) was in the course of, or in connection with, the provision or use of such a service.
- (2) The cases in which the statement, or the article or record to which the conduct relates, is to be regarded as having the endorsement of a person (the “relevant person”) at any time include a case in which —
 - (a) a constable has given him or her a notice under subsection (3);
 - (b) that time falls more than 2 working days after the day on which the notice was given; and
 - (c) the relevant person has failed, without reasonable excuse, to comply with the notice.
- (3) A notice under this subsection is a notice which —
 - (a) declares that, in the opinion of the constable giving it, the statement or the article or record is unlawfully terrorism-related;
 - (b) requires the relevant person to secure that the statement or the article or record, so far as it is so related, is not available to the public or is modified so as no longer to be so related;
 - (c) warns the relevant person that a failure to comply with the notice within 2 working days will result in the statement, or the article or record, being regarded as having his or her endorsement; and
 - (d) explains how, under subsection (4), he or she may become liable by virtue of the notice if the statement, or the article or record, becomes available to the public after he or she has complied with the notice.
- (4) Where —
 - (a) a notice under subsection (3) has been given to the relevant person in respect of a statement, or an article or record, and the relevant person has complied with it; but
 - (b) the relevant person subsequently publishes or causes to be published a statement which is, or is for all practical purposes, the same or to the same effect as the statement to which the notice related, or to matter contained in the article or record to which it related, (a “repeat statement”),

the requirements of subsection (2)(a) to (c) shall be regarded as satisfied in the case of the repeat statement in relation to the times of its subsequent publication by the relevant person.

- (5) In proceedings against a person for an offence under section 47A or 47B the requirements of subsection (2)(a) to (c) are not, in his or her case, to be regarded as satisfied in relation to any time by virtue of subsection (4) if the person shows that he or she —
- (a) has, before that time, taken every step he or she reasonably could to prevent a repeat statement from becoming available to the public and to ascertain whether it does; and
 - (b) was, at that time, a person to whom subsection (6) applied.
- (6) This subsection applies to a person at any time when he or she —
- (a) is not aware of the publication of the repeat statement; or
 - (b) having become aware of its publication, has taken every step that he or she reasonably could to secure that it either ceased to be available to the public or was modified as mentioned in subsection (3)(b).
- (7) For the purposes of this section a statement or an article or record is unlawfully terrorism-related if it constitutes, or if matter contained in the article or record constitutes —
- (a) something that is likely to be understood, by any one or more of the persons to whom it has or may become available, as incitement of the commission, preparation or instigation of acts of terrorism or Convention offences; or
 - (b) information which —
 - (i) is likely to be useful to any one or more of those persons in the commission or preparation of such acts; and
 - (ii) is in a form or context in which it is likely to be understood by any one or more of those persons as being wholly or mainly for the purpose of being so useful.
- (8) In this section “working day” means any day other than —
- (a) a Saturday or a Sunday;
 - (b) Christmas Day or Good Friday; or
 - (c) a day which is a bank holiday under the *Bank Holidays Act 1989*.¹⁴⁸

47D Giving of notices under section 47C

[P2008/28/4]

- (1) Except in a case to which any of subsections (2) to (4) applies, a notice under section 47C(3) may be given to a person only —
- (a) by delivering it to him or her in person; or

- (b) by sending it to him or her, by means of a postal service providing for delivery to be recorded, at his or her last known address.
- (2) Such a notice may be given to a body corporate only —
 - (a) by delivering it to the secretary of that body in person; or
 - (b) by sending it to the appropriate person, by means of a postal service providing for delivery to be recorded, at the address of the registered or principal office of the body.
- (3) Such a notice may be given to a firm only —
 - (a) by delivering it to a partner of the firm in person;
 - (b) by so delivering it to a person having the control or management of the partnership business; or
 - (c) by sending it to the appropriate person, by means of a postal service providing for delivery to be recorded, at the address of the principal office of the partnership.
- (4) Such a notice may be given to an unincorporated body or association only —
 - (a) by delivering it to a member of its governing body in person; or
 - (b) by sending it to the appropriate person, by means of a postal service providing for delivery to be recorded, at the address of the principal office of the body or association.
- (5) In the case of —
 - (a) a company registered outside the Island;
 - (b) a firm carrying on business outside the Island; or
 - (c) an unincorporated body or association with offices outside the Island,

the references in this section to its principal office include references to its principal office within the Island (if any).
- (6) In this section “the appropriate person” means —
 - (a) in the case of a body corporate, the body itself or its secretary;
 - (b) in the case of a firm, the firm itself or a partner of the firm or a person having the control or management of the partnership business; and
 - (c) in the case of an unincorporated body or association, the body or association itself or a member of its governing body.
- (7) For the purposes of section 47C the time at which a notice under subsection (3) of that section is to be regarded as given is —
 - (a) where it is delivered to a person, the time at which it is so delivered; and

- (b) where it is sent by a postal service providing for delivery to be recorded, the time recorded as the time of its delivery.
- (8) In this section “secretary”, in relation to a body corporate, means the secretary or other equivalent officer of the body.¹⁴⁹

Terrorist bombing and finance offences

48 Terrorist bombing: jurisdiction

[P2000/11/62]

- (1) If —
 - (a) a person does anything outside the Island as an act of terrorism or for the purposes of terrorism, and
 - (b) his action would have constituted the commission of one of the offences listed in subsection (2) if it had been done in the Island,he shall be guilty of the offence.
- (2) The offences referred to in subsection (1)(b) are —
 - (a) an offence under section 2, 3 or 5 of the *Explosive Substances Act 1883* (causing explosions, etc.),
 - (b) an offence under section 1 of the *Biological Weapons Act 1974* (an Act of Parliament) as that Act has effect in the Island (biological weapons), and
 - (c) an offence under section 2 of the *Chemical Weapons Act 1996* (an Act of Parliament), as that Act has effect in the Island (chemical weapons).

49 Offences committed outside jurisdiction¹⁵⁰

[P2000/11/63]

- (1) If —
 - (a) a person does anything outside the Island, and
 - (b) his action would have constituted the commission of an offence under this Act if it had been done in the Island,¹⁵¹he shall be guilty of the offence.
- (2) For the purposes of subsection (1)(b), section 10(1)(b) shall be read as if for “the jurisdiction” there were substituted “a jurisdiction”.
- (3) Subsection (1) applies irrespective of whether the person is a British citizen or, in the case of a company, a company incorporated in the Island.¹⁵²
- (4) In this section “British citizen” means a British citizen within the meaning of the *British Nationality Act 1981* (of Parliament).¹⁵³

49A Interpretation of Part VI

[P2006/11/20]

(1) In this Part —

“**publish**” is to be construed in accordance with subsection (2);“**statement**” is to be construed in accordance with subsection (4).

(2) In this Part references to a person’s publishing a statement are references to the person —

- (a) publishing it in any manner to the public;
- (b) providing electronically any service by means of which the public have access to the statement; or
- (c) using a service provided to him or her electronically by another so as to enable or to facilitate access by the public to the statement;

but this subsection does not apply to the references to a publication in section 47B.

(3) In this Part references to providing a service include references to making a facility available; and references to a service provided to a person are to be construed accordingly.

(4) In this Part references to a statement are references to a communication of any description, including a communication without words consisting of sounds or images or both.

(5) In this Part references to conduct that should be emulated in existing circumstances include references to conduct that is illustrative of a type of conduct that should be so emulated.

(6) In this Part references to what is contained in an article or record include references —

- (a) to anything that is embodied or stored in or on it; and
- (b) to anything that may be reproduced from it using apparatus designed or adapted for the purpose.¹⁵⁴

PART VIA - WEAPONS OF MASS DESTRUCTION¹⁵⁵*Nuclear weapons***49B Use etc of nuclear weapons**

[P2001/24/47]

(1) A person commits an offence if the person —

- (a) knowingly causes a nuclear weapon explosion;
- (b) develops or produces, or participates in the development or production of, a nuclear weapon;

- (c) has a nuclear weapon in his or her possession;
 - (d) participates in the transfer of a nuclear weapon; or
 - (e) engages in military preparations, or in preparations of a military nature, intending to use, or threaten to use, a nuclear weapon.
- (2) Subsection (1) has effect subject to the exceptions and defences in sections 49C and 49D.
- (3) For the purposes of subsection (1)(b) a person participates in the development or production of a nuclear weapon if he or she does any act which —
 - (a) facilitates the development by another of the capability to produce or use a nuclear weapon; or
 - (b) facilitates the making by another of a nuclear weapon,knowing or having reason to believe that his or her act has (or will have) that effect.
- (4) For the purposes of subsection (1)(d) a person participates in the transfer of a nuclear weapon if —
 - (a) he or she buys or otherwise acquires it or agrees with another to do so;
 - (b) he or she sells or otherwise disposes of it or agrees with another to do so; or
 - (c) he or she makes arrangements under which another person either acquires or disposes of it or agrees with a third person to do so.
- (5) A person guilty of an offence under this section is liable on conviction on information to custody for life.
- (6) In this section “nuclear weapon” includes a nuclear explosive device that is not intended for use as a weapon.¹⁵⁶

49C Exceptions

[P2001/24/48]

- (1) Nothing in section 49B applies —
 - (a) to an act done in the course of an armed conflict; or
 - (b) where subsection (4) applies.
- (2) Any question arising in proceedings for an offence under section 49B as to whether anything was done in the course of an armed conflict shall be determined by the Secretary of State.
- (3) A certificate purporting to set out any such determination and to be signed by the Secretary of State shall be received in evidence in any such proceedings and shall be presumed to be so signed unless the contrary is shown.

- (4) This subsection applies where an act to which section 49B applies is carried out in accordance with the terms of an authorisation issued by the Secretary of State under section 48(2) of the Anti-Terrorism, Crime and Security Act 2001 (of Parliament) concerning the use etc of nuclear weapons under section 47 of that Act.¹⁵⁷

49D Defences

[P2001/24/49]

- (1) In proceedings for an offence under section 49B(1)(c) or (d) relating to an object it is a defence for the accused to show that he or she did not know and had no reason to believe that the object was a nuclear weapon.
- (2) But he or she shall be taken to have shown that fact if —
 - (a) sufficient evidence is adduced to raise an issue with respect to it; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (3) In proceedings for such an offence it is also a defence for the accused to show that he or she knew or believed that the object was a nuclear weapon but, as soon as reasonably practicable after he or she first knew or believed that fact, he or she took all reasonable steps to inform the Department or a constable of his or her knowledge or belief.¹⁵⁸

49E Assisting or inducing certain weapons-related acts outside Island

[P2001/24/50]

- (1) A person who aids, abets, counsels or procures, or incites, a person to do a relevant act outside the Island is guilty of an offence.
- (2) For this purpose a relevant act is an act that would constitute an offence under any of the following provisions —
 - (a) section 1 of the Biological Weapons Act 1974 (offences relating to biological agents and toxins) (of Parliament), as that Act has effect in the Island;
 - (b) section 2 of the Chemical Weapons Act 1996 (offences relating to chemical weapons) (of Parliament), as that Act has effect in the Island; or
 - (c) section 49B (use etc of nuclear weapons).
- (3) A person accused of an offence under this section in relation to a relevant act which would contravene a provision mentioned in subsection (2) may raise any defence which would be open to a person accused of the corresponding offence ancillary to an offence under that provision.
- (4) A person convicted of an offence under this section is liable on conviction on information to custody for life.

- (5) Proceedings for an offence committed under this section outside the Island may be taken, and the offence may for incidental purposes be treated as having been committed, in the Island.¹⁵⁹

49F Powers of entry

[P2001/24/52]

- (1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting that evidence of the commission of an offence under section 49B or 49E is to be found on any premises, the justice of the peace may issue a warrant authorising an authorised officer to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.
- (2) The powers of a person who enters the premises under the authority of the warrant include power —
- (a) to take with him or her such other persons and such equipment as appear to him or her to be necessary;
 - (b) to inspect, seize and retain any substance, equipment or document found on the premises;
 - (c) to require any document or other information which is held in electronic form and is accessible from the premises to be produced in a form —
 - (i) in which he or she can read and copy it; or
 - (ii) from which it can readily be produced in a form in which he or she can read and copy it;
 - (d) to copy any document which he or she has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under section 49B or 49E.
- (3) A constable who enters premises under the authority of a warrant or by virtue of subsection (2)(a) may —
- (a) give such assistance as an authorised officer may request for the purpose of facilitating the exercise of any power under this section; and
 - (b) search or cause to be searched any person on the premises who the constable has reasonable cause to believe may have in his or her possession any document or other thing which may be required as evidence for the purposes of proceedings in respect of an offence under section 49B or 49E.
- (4) A constable must not search a person of the opposite sex.
- (5) If the warrant so provides, the powers conferred by a warrant under this section shall be exercisable only in the presence of a constable.
- (6) A person who —

- (a) wilfully obstructs an authorised officer in the exercise of a power conferred by a warrant under this section; or
 - (b) fails without reasonable excuse to comply with a reasonable request made by an authorised officer or a constable for the purpose of facilitating the exercise of such a power,is guilty of an offence.
- (7) A person guilty of an offence under subsection (6) is liable —
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to a fine not exceeding level 5 on the standard scale.¹⁶⁰
- (8) In this section “authorised officer” means a person appointed by the Department for the purposes of this section.¹⁶¹

49G Customs and excise investigations

[P2001/24/53]

Where a customs officer investigates, or proposes to investigate, any matter with a view to determining —

- (a) whether there are grounds for believing that an offence under section 49B or 49E has been committed; or
 - (b) whether a person should be prosecuted for such an offence,
- that matter shall be treated as an assigned matter within the meaning of the *Customs and Excise Management Act 1986*.¹⁶²

49H False statements etc

[P2001/24/54]

- (1) A person who knowingly or recklessly makes a false or misleading statement for the purpose of obtaining (or opposing the variation or withdrawal of) authorisation for the purposes of section 49B or 49E is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable —
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both; and
 - (b) on summary conviction, to a fine not exceeding level 5 on the standard scale.^{163 164}

PART VII¹⁶⁵**50 to 55 [Repealed]¹⁶⁶****PART VIII - DISCLOSURE OF INFORMATION****56 Extension of existing disclosure powers**

[P2001/24/17]

- (1) This section applies to the provisions listed in Schedule 10, so far as they authorise the disclosure of information.
- (2) Each of the provisions to which this section applies shall have effect, in relation to the disclosure of information by or on behalf of a public authority, as if the purposes for which the disclosure of information is authorised by that provision included each of the following —
 - (a) the purposes of any criminal investigation whatever which is being or may be carried out, whether in the Island or elsewhere;
 - (b) the purposes of any criminal proceedings whatever which have been or may be initiated, whether in the Island or elsewhere;
 - (c) the purposes of the initiation or bringing to an end of any such investigation or proceedings;
 - (d) the purpose of facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end.
- (3) The Department may by order add any provision contained in any subordinate legislation to the provisions to which this section applies.
- (4) No disclosure of information shall be made by virtue of this section unless the public authority by which the disclosure is made is satisfied that the making of the disclosure is proportionate to what is sought to be achieved by it.
- (5) Nothing in this section shall be taken to prejudice any power to disclose information which exists apart from this section.
- (6) The information that may be disclosed by virtue of this section includes information obtained before the commencement of this section.

57 Restriction on disclosure of information for overseas purposes

[P2001/24/18]

- (1) Subject to subsections (2) and (3), the Department may give a direction which —
 - (a) specifies any overseas proceedings or any description of overseas proceedings; and

- (b) prohibits the making of any relevant disclosure for the purposes of those proceedings or, as the case may be, of proceedings of that description.
- (2) In subsection (1) the reference, in relation to a direction, to a relevant disclosure is a reference to a disclosure authorised by any of the provisions to which section 56 applies which —
 - (a) is made for a purpose mentioned in subsection (2)(a) to (d) of that section; and
 - (b) is a disclosure of any such information as may be described in the direction.
- (3) The Department shall not give a direction under this section unless it appears to it that the overseas proceedings in question, or that overseas proceedings of the description in question, relate or would relate —
 - (a) to a matter in respect of which it would be more appropriate for any jurisdiction or investigation to be exercised or carried out by a court or other authority of the Island;
 - (b) to a matter in respect of which it would be more appropriate for any jurisdiction or investigation to be exercised or carried out by a court or other authority of a third country; or
 - (c) to a matter that would fall within paragraph (a) or (b) —
 - (i) if it were appropriate for there to be any exercise of jurisdiction or investigation at all; and
 - (ii) if (where one does not exist) a court or other authority with the necessary jurisdiction or functions existed in the Island or, as the case may be, in the third country in question.
- (4) A direction under this section shall not have the effect of prohibiting —
 - (a) the making of any disclosure by the Governor, the Attorney General or by the Treasury; or
 - (b) the making of any disclosure in pursuance of an EU obligation.¹⁶⁷
- (5) A direction under this section —
 - (a) may prohibit the making of disclosures absolutely or in such cases, or subject to such conditions as to consent or otherwise, as may be specified in it; and
 - (b) must be published or otherwise issued by the Department in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it.
- (6) A person who, knowing of any direction under this section, discloses any information in contravention of that direction shall be guilty of an offence and liable —
 - (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine or to both;

- (b) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale or to both.¹⁶⁸
- (7) The following are overseas proceedings for the purposes of this section —
 - (a) criminal proceedings which are taking place, or will or may take place, in a country or territory outside the Island;
 - (b) a criminal investigation which is being, or will or may be, conducted by an authority of any such country or territory.
- (8) References in this section, in relation to any proceedings or investigation, to a third country are references to any country or territory outside the Island which is not the country or territory where the proceedings are taking place, or will or may take place or, as the case may be, is not the country or territory of the authority which is conducting the investigation, or which will or may conduct it.
- (9) In this section “court” includes a tribunal of any description.

58 Disclosure of information held by Treasury

[P2001/24/19]

- (1) This section applies to information which is held by or on behalf of the Treasury.
- (2) This section applies to information obtained before as well as after the coming into operation of this section.
- (3) No obligation of secrecy imposed by statute or otherwise prevents the disclosure, in accordance with the following provisions of this section, of information to which this section applies if the disclosure is made for the purposes of —
 - (a) any terrorist investigation whatever which is being or may be carried out, whether in the Island or elsewhere;
 - (b) any criminal proceedings whatever which relate, directly or indirectly, to any matter specified in paragraphs (a) to (d) of section 19 (terrorist investigations) and which have been or may be initiated, whether in the Island or elsewhere;
 - (c) the initiation or bringing to an end of any such investigation or proceedings; or
 - (d) facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end.
 - (e) [Repealed]¹⁶⁹
- (4) No disclosure of information to which this section applies shall be made by virtue of this section unless the person by whom the disclosure is made is satisfied that the making of the disclosure is proportionate to what is sought to be achieved by it.

- (5) Information to which this section applies shall not be disclosed by virtue of this section except by the Treasury or with its authority.
- (6) Information obtained by means of a disclosure authorised by subsection (3) shall not be further disclosed except —
 - (a) for a purpose mentioned in that subsection; and
 - (b) with the consent of the Treasury.
- (7) A consent for the purposes of subsection (6) may be given either in relation to a particular disclosure or in relation to disclosures made in such circumstances as may be specified or described in the consent.
- (8) Nothing in this section authorises the making of any disclosure which is prohibited by any provision of the *Data Protection Act 2002*^{170, 171}
- (9) References in this section to information which is held on behalf of the Treasury include references to information which —
 - (a) is held by a person who provides services to the Treasury; and
 - (b) is held by that person in connection with the provision of those services.
- (10) [Repealed]¹⁷²
- (11) Nothing in this section shall be taken to prejudice any power to disclose information which exists apart from this section.
- (12) [Amends section 1 of the *Customs and Excise etc. (Amendment) Act 2001* in the new section 174B as follows: paragraph (a) inserts the word “or” at the end of paragraph (d) and adds paragraph (e) to subsection (2); and paragraph (b) adds subsection (8A) (i.e. it amends section 174B of the *Customs and Excise Management Act 1986*).]

58A Disclosure and the intelligence services

[P2008/28/19&20]

- (1) A person may disclose information to any of the British intelligence services for the purposes of the exercise by that service of any of its functions.
- (2) A disclosure under this section does not breach —
 - (a) any obligation of confidence owed by the person making the disclosure; or
 - (b) any other restriction on the disclosure of information (however imposed).
- (3) Nothing in this section authorises a disclosure that —
 - (a) contravenes the *Data Protection Act 2002*¹⁷³; or
 - (b) is prohibited by the *Interception of Communications Act 1988*.¹⁷⁴

59 Interpretation of Part VIII

[P2001/24/20]

(1) In this Part —

“criminal investigation” means an investigation of any criminal conduct, including an investigation of alleged or suspected criminal conduct and an investigation of whether criminal conduct has taken place;

“information” includes —

- (a) documents;
- (aa) evidence; and¹⁷⁵
- (b) in relation to a disclosure authorised by a provision to which section 56 applies, anything that falls to be treated as information for the purposes of that provision;

“public authority” has the same meaning as in section 6 of the *Human Rights Act 2001*.

(2) Proceedings outside the Island shall not be taken to be criminal proceedings for the purposes of this Part unless the conduct with which the defendant in those proceedings is charged is criminal conduct or conduct which, to a substantial extent, consists of criminal conduct.

(3) In this section —

“conduct” includes acts, omissions and statements; and

“criminal conduct” means any conduct which —

- (a) constitutes one or more criminal offences under the law of the Island; or
- (b) is, or corresponds to, conduct which, if it all took place in the Island, would constitute one or more offences under the law of the Island.

PART IX – DANGEROUS SUBSTANCES AND HOAXES**60 Use of noxious substances to cause harm and intimidate**

[P2001/24/113]

(1) A person who takes any action which —

- (a) involves the use of a noxious substance or other noxious thing;
- (b) has an effect falling within subsection (2); and
- (c) is designed to influence the government or an international organisation or to intimidate the public or a section of the public,¹⁷⁶

is guilty of an offence.

(2) Action falls within this subsection if it —

- (a) causes serious violence against a person anywhere in the world;

- (b) causes serious damage to real or personal property anywhere in the world;
 - (c) endangers human life or creates a serious risk to the health or safety of the public or a section of the public;
 - (d) induces in members of the public the fear that the action is likely to endanger their lives or create a serious risk to their health or safety;
 - (e) constitutes a Convention offence; or¹⁷⁷
 - (f) would constitute a Convention offence if done in the Island,¹⁷⁸
- but any effect on the person taking the action is to be disregarded.
- (3) A person who —
- (a) makes a threat that he or another will take any action which constitutes an offence under subsection (1); and
 - (b) intends thereby to induce in a person anywhere in the world the fear that the threat is likely to be carried out,
- is guilty of an offence.
- (4) A person guilty of an offence under this section is liable —
- (a) on summary conviction, to custody for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both); and¹⁷⁹
 - (b) on conviction on information, to custody for a term not exceeding 14 years or a fine (or both).
- (5) In this section —
- “the government” means the government of the Island or of a country or territory other than the Island;
- “the public” includes the public of a country other than the Island.

61 Hoaxes

[P1977/45/51 and 2001/24/114]

- (1) A person is guilty of an offence if he —
- (a) places any thing in any place; or
 - (b) sends any thing from one place to another (by post or any other means whatever);
- with the intention of inducing in a person anywhere in the world a belief that it is likely —
- (a) to be (or contain) a noxious substance or other noxious thing and thereby endanger human life or create a serious risk to human health; or
 - (b) to explode or ignite and thereby cause personal injury or damage to property.

- (2) A person is guilty of an offence if he communicates any information which he knows or believes to be false with the intention of inducing in a person anywhere in the world a belief that —
- (a) a noxious substance or other noxious thing is likely to be present (whether at the time the information is communicated or later) and thereby endanger human life or create a serious risk to human health; or
 - (b) a bomb or other thing liable to explode or ignite is likely to be present (whether at the time the information is communicated or later).
- (3) A person guilty of an offence under this section is liable —
- (a) on summary conviction, to custody for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both); and¹⁸⁰
 - (b) on conviction on indictment, to custody for a term not exceeding 7 years or a fine (or both).

62 Sections 60 and 61: supplementary

[P2001/24/115]

- (1) In sections 60 and 61 —
- “**thing**” includes substance; and
- “**substance**” includes any biological agent and any other natural or artificial substance (whatever its form, origin or method of production).
- (2) For a person to be guilty of an offence under section 60(3) or 61 it is not necessary for him to have any particular person in mind as the person in who he intends to induce the belief in question.

PART IXA - RADIOACTIVE DEVICES AND MATERIALS AND NUCLEAR FACILITIES AND SITES¹⁸¹

62A Making and possession of devices or materials

[P2006/11/9]

- (1) A person commits an offence if the person —
- (a) makes or possesses a radioactive device; or
 - (b) possesses radioactive material,
- with the intention of using the device or material in the course of or in connection with the commission or preparation of an act of terrorism or for the purposes of terrorism, or of making it available to be so used.

- (2) It is irrelevant for the purposes of subsection (1) whether the act of terrorism to which an intention relates is a particular act of terrorism, an act of terrorism of a particular description or an act of terrorism generally.
- (3) A person who commits an offence under this section is liable, on conviction on information, to custody for life.¹⁸²

62B Misuse of devices or material and misuse and damage of facilities

[P2006/11/10]

- (1) A person commits an offence if he or she uses —
 - (a) a radioactive device, or
 - (b) radioactive material,in the course of or in connection with the commission of an act of terrorism or for the purposes of terrorism.
- (2) A person commits an offence if, in the course of or in connection with the commission of an act of terrorism or for the purposes of terrorism, he or she uses or damages a nuclear facility in a manner which —
 - (a) causes a release of radioactive material; or
 - (b) creates or increases a risk that such material will be released.
- (3) A person guilty of an offence under this section is liable, on conviction on information, to custody for life.¹⁸³

62C Terrorist threats relating to devices, materials or facilities

[P2006/11/11]

- (1) A person commits an offence if, in the course of or in connection with the commission of an act of terrorism or for the purposes of terrorism —
 - (a) the person makes a demand —
 - (i) for the supply to the person or to another of a radioactive device or of radioactive material;
 - (ii) for a nuclear facility to be made available to the person or to another; or
 - (iii) for access to such a facility to be given to the person or to another;
 - (b) the person supports the demand with a threat that the person or another will take action if the demand is not met; and
 - (c) the circumstances and manner of the threat are such that it is reasonable for the person to whom it is made to assume that there is real risk that the threat will be carried out if the demand is not met.
- (2) A person also commits an offence if —

- (a) the person makes a threat falling within subsection (3) in the course of or in connection with the commission of an act of terrorism or for the purposes of terrorism; and
 - (b) the circumstances and manner of the threat are such that it is reasonable for the person to whom it is made to assume that there is real risk that the threat will be carried out, or would be carried out if demands made in association with the threat are not met.
- (3) A threat falls within this subsection if it is —
 - (a) a threat to use a radioactive device;
 - (b) a threat to use radioactive material; or
 - (c) a threat to use or damage a nuclear facility in a manner that releases radioactive material or creates or increases a risk that such material will be released.
- (4) A person guilty of an offence under this section is liable, on conviction on information, to custody for life.¹⁸⁴

PART X – MISCELLANEOUS POWERS AND PROCEEDINGS

63 Police powers

[P2000/11/114]

- (1) A power conferred by virtue of this Act on a constable —
 - (a) is additional to powers which he has at common law or by virtue of any other statutory provision, and
 - (b) shall not be taken to affect those powers.
- (2) A constable may if necessary use reasonable force for the purpose of exercising a power conferred on him under this Act (apart from paragraphs 2 and 3 of Schedule 7).
- (3) Where anything is seized by a constable under a power conferred by virtue of this Act, it may (unless the contrary intention appears) be retained for so long as is necessary in all the circumstances.

64 Amendment of police powers

[P2001/24/53-55]

The enactments referred to in Schedule 11 are amended in accordance with that Schedule.

65 Officers' powers

[P2000/11/115]

Schedule 12 (which makes provision about the exercise of functions by authorised officers for the purposes of Schedule 3 and examining officers for the purposes of Schedule 7) shall have effect.

66 Powers to stop and search

[P2000/11/116]

- (1) A power to search premises conferred by virtue of this Act shall be taken to include power to search a container.
- (2) A power conferred by virtue of this Act to stop a person includes power to stop a vehicle (other than an aircraft which is airborne).
- (3) A person commits an offence if he fails to stop a vehicle when required to do so by virtue of this section.
- (4) A person guilty of an offence under subsection (3) shall be liable on summary conviction to custody for a term not exceeding 12 months, a fine not exceeding level 5 on the standard scale or to both.¹⁸⁵

67 Consent to prosecution

[P2000/11/117]

- (1) Proceedings for an offence under this Act shall not be instituted without the consent of the Attorney General.
- (2) Subsection (1) shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an arrest, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

68 Defences

[P2000/11/118]

- (1) Subsection (2) applies where in accordance with this Act it is a defence for a person charged with an offence to prove a particular matter.
- (2) If the person adduces evidence which is sufficient to raise an issue with respect to the matter, the court or jury shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (3) Subsection (4) applies where in accordance with this Act a court —
 - (a) may make an assumption in relation to a person charged with an offence unless a particular matter is proved, or
 - (b) may accept a fact as sufficient evidence unless a particular matter is proved.

- (4) If evidence is adduced which is sufficient to raise an issue with respect to the matter mentioned in subsection (3)(a) or (b) the court shall treat it as proved unless the prosecution disproves it beyond reasonable doubt.

69 Convictions: effect of deproscription

[P2000/11/7]

- (1) This section applies where —
- (a) an appeal under section 5 of the UK Act (appeal against refusal of deproscription) has been allowed in respect of an organisation,
 - (b) an order has been made under section 3(3)(b) of that Act (order deproscribing an organisation) in respect of the organisation in accordance with an order of the Proscribed Organisations Appeal Commission under section 5(3) of that Act (order to deproscribe),
 - (c) a person has been convicted of an offence in respect of the organisation under any of sections 3 to 5, 7 to 11, 14 and 44 of this Act, and
 - (d) the activity to which the charge referred took place on or after the date of the refusal to deproscribe against which the appeal under the said section 5 was brought.
- (1A) This section also applies where —
- (a) an appeal under section 5 of the UK Act (appeal against refusal of deproscription) has been allowed in respect of a name treated as the name for an organisation;
 - (b) an order has been made under section 3(8) of that Act in respect of the name in accordance with an order of the Commission under section 5(4) of that Act;
 - (c) a person has been convicted of an offence in respect of the organisation under any of sections 3 to 5, 7 to 11 and 44; and
 - (d) the activity to which the charge referred took place on or after the date of the refusal, against which the appeal under section 5 of the UK Act was brought, to provide for a name to cease to be treated as a name for the organisation.¹⁸⁶
- (2) A person mentioned in subsection (1)(c) or (1A)(c) —
- (a) may appeal against the conviction to the Staff of Government Division, and
 - (b) the Court shall allow the appeal.¹⁸⁷
- (3) A person may appeal against a conviction under subsection (2) —
- (a) whether or not he pleaded guilty,
 - (b) whether or not he has already appealed against the conviction, and

- (c) whether or not he has made an application in respect of the conviction under section 109 of the *Summary Jurisdiction Act 1989* (case stated).
- (4) An appeal under subsection (2) —
 - (a) must be brought within the period of 28 days beginning with the date on which the order mentioned in subsection (1)(b) or (1A)(b) comes into force, and¹⁸⁸
 - (b) shall be treated as an appeal under section 103(1)(b) of the *Summary Jurisdiction Act 1989* or, as the case requires, an appeal under section 30 of the *Criminal Jurisdiction Act 1993*.

70 Crown servants, regulators etc

[P2000/11/119]

- (1) The Governor in Council may make regulations providing for any of sections 7 to 16B and 27 to apply to persons in the public service of the Crown in right of the Government of the Island.¹⁸⁹
- (2) The Governor in Council may make regulations providing for section 11 not to apply to persons who are in his opinion performing or connected with the performance of regulatory, supervisory, investigative or registration functions of a public nature.

71 Warrants

[1990/19/Sch.7 para.6]

The taking of such action as is specified in a warrant issued under section 5 of the Intelligence Services Act 1994 (an Act of Parliament) shall not be unlawful if —

- (a) in a case where the warrant authorises the taking of action in relation to conduct within subsection (3B) of that section, the warrant was issued with the consent of the Attorney General; or
- (b) in any other case, the warrant was issued after consultation with the Chief Minister or the Minister for Home Affairs.

72 Evidence

[P2000/11/120]

- (1) A document which purports to be —
 - (a) a notice or direction given or order made by the Governor in Council for the purposes of any provision of this Act, and
 - (b) signed by the Chief Secretary,
 shall be received in evidence and shall, until the contrary is proved, be deemed to have been given or made by the Governor in Council.
- (2) A document bearing a certificate which —
 - (a) purports to be signed by, or on behalf of the Chief Secretary, and

- (b) states that the document is a true copy of a notice or direction given or order made by the Governor in Council for the purposes of any provision of this Act,

shall be evidence of the document in legal proceedings.

- (3) In subsections (1) and (2) a reference to an order does not include a reference to an order which is a public document.¹⁹⁰

72A Supplemental powers of forfeiture

[P2000/11/120A]

- (1) A court by or before which a person is convicted of an offence under a provision mentioned in column 1 of the following table may order the forfeiture of any item mentioned in column 2 in relation to that offence.

<i>Offence</i>	<i>Items liable to forfeiture</i>
Section 42 (weapons training)	Anything that the court considers to have been in the possession of the person for purposes connected with the offence.
Section 45 (possession for terrorist purposes)	Any article that is the subject matter of the offence.
Section 46 (collection of information)	Any document or record containing information of the kind mentioned in subsection (1)(a) of that section.
Section 46A (eliciting, publishing or communicating information about members of armed forces etc)	Any document or record containing information of the kind mentioned in subsection (1)(a) of that section.

- (2) Before making an order under this section, a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner or otherwise interested in anything which can be forfeited under this section.
- (3) An order under this section does not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).
- (4) Where a court makes an order under this section, it may also make such other provision as appears to it to be necessary for giving effect to the forfeiture, including, in particular, provision relating to the retention, handling, disposal or destruction of what is forfeited.
- (5) Provision made by virtue of subsection (4) may be varied at any time by the court that made it.
- (6) The power of forfeiture under this section is in addition to any power of forfeiture under section 16A or 16B.¹⁹¹

*Sentencing***72B Sentences for offences with a terrorist connection**

[P2008/28/30]

- (1) This section applies where a court is considering for the purposes of sentence the seriousness of an offence —
 - (a) under this Act; or
 - (b) specified in Schedule 2A (offences where terrorist connection to be considered).
- (2) If having regard to the material before it for the purposes of sentencing it appears to the court that the offence has or may have a terrorist connection, the court must determine whether that is the case.
- (3) For that purpose the court may hear evidence, and must take account of any representations made by the prosecution and the defence, as in the case of any other matter relevant for the purposes of sentence.
- (4) If the court determines that the offence has a terrorist connection, the court —
 - (a) must treat that fact as an aggravating factor; and
 - (b) must state in open court that the offence was so aggravated.
- (5) In this section “sentence”, in relation to an offence, includes any order made by a court when dealing with a person in respect of the offence.
- (6) This section has effect in relation only to offences committed on or after the day it comes into operation.¹⁹²

72C Power to amend list of offences where terrorist connection to be considered

[P2008/28/33]

- (1) The Department may by order amend Schedule 2A (offences where terrorist connection to be considered).
- (2) An order adding an offence to that Schedule applies only in relation to offences committed after the order comes into operation.¹⁹³

PART XI¹⁹⁴

73 [Repealed]¹⁹⁵

PART XII – TOXINS

74 Security of pathogens and toxins

Schedule 13 (security of pathogens and toxins) shall have effect.

PART XIII – GENERAL

75 Interpretation

[P2000/11/121]

(1) In this Act —

“**act**” and “**action**” include omission,

“**article**” includes substance and any other thing,

“**atomic energy**” means the energy released from atomic nuclei as the result of any process, including the fission process, but does not include energy released in any process of natural transmutation or radioactive decay which is not accelerated or influenced by external means;¹⁹⁶

“**Convention offence**” means an offence listed in Schedule 13A or an equivalent offence under the law of a county or territory outside the Island;¹⁹⁷

“**customs officer**” has the meaning given in section 184(1) of the *Customs and Excise Management Act 1986*,

“**Department**” means the Department of Home Affairs;

“**dwelling**” means a building or part of a building used as a dwelling, and a vehicle which is habitually stationary and which is used as a dwelling,

“**explosive**” means —

- (a) an article or substance manufactured for the purpose of producing a practical effect by explosion,
- (b) materials for making an article or substance within paragraph (a),
- (c) anything used or intended to be used for causing or assisting in causing an explosion, and
- (d) a part of anything within paragraph (a) or (c),

“**FIU**” means the Financial Intelligence Unit established by the *Financial Intelligence Unit Act 2016*;¹⁹⁸

“**firearm**” includes an air gun or air pistol,

“**GCHQ**” has the same meaning as in the Intelligence Services Act 1994 (*see* section 3(3) of that Act) (of Parliament);¹⁹⁹

“**Immigration Act**” means the Immigration Act 1971 (an Act of Parliament) as that Act has effect in the Island;

“**immigration officer**” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act,

“**intelligence services**” means the Security Service, the Secret Intelligence Service or GCHQ;²⁰⁰

“**international organisation**” means an organisation whose members are any of the following —

- (a) countries or territories;
- (b) governments of countries or territories;
- (c) a mixture of any of the above;²⁰¹

“**nuclear facility**” means —

- (a) a nuclear reactor, including a reactor installed in or on any transportation device for use as an energy source in order to propel it or for any other purpose; or
- (b) a plant or conveyance being used for the production, storage, processing or transport of radioactive material;²⁰²

“**nuclear material**” means plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; uranium enriched in the isotopes 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;²⁰³

“**nuclear reactor**” means any plant (including any machinery, equipment or appliance, whether affixed to land or not) designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons;²⁰⁴

“**organisation**” includes any association or combination of persons,

“**premises**” includes any place and in particular includes —

- (a) a vehicle,
- (b) an offshore installation within the meaning given in section 1 of the *Mineral Workings (Offshore Installations) (Isle of Man) Act 1974*, and
- (c) a tent or moveable structure,

“**property**” is all property, wherever situated and includes —

- (a) money;
- (b) all forms of property, real or personal, heritable or moveable;
- (c) things in action and other intangible or incorporeal property; and

- (d) legal documents and instruments evidencing title to or interest in any such property;²⁰⁵

“**public**” is to be construed in accordance with subsection (2);²⁰⁶

“**public place**” means a place to which members of the public have or are permitted to have access, whether or not for payment,

“**radioactive device**” means —

- a nuclear weapon or other nuclear explosive device;
- a radioactive material dispersal device;
- a radiation-emitting device,

and for the purposes of this definition “**device**” includes any of the following, whether or not fixed to land, namely, machinery, equipment, appliances, tanks, containers, pipes and conduits;²⁰⁷

“**radioactive material**” means nuclear material or any other radioactive substance which —

- contains nuclides that undergo spontaneous disintegration in a process accompanied by the emission of one or more types of ionising radiation, such as alpha radiation, beta radiation, neutron particles or gamma rays; and
- is capable, owing to its radiological or fissile properties, of —
 - causing serious bodily injury to a person;
 - causing serious damage to property;
 - endangering a person’s life; or
 - creating a serious risk to the health or safety of the public;²⁰⁸

“**record**” means a record so far as not comprised in an article, including a temporary record created electronically and existing solely in the course of, and for the purposes of, the transmission of the whole or a part of its contents;²⁰⁹

“**road**” has the same meaning as in the *Road Traffic Act 1985*,

“**search powers code**” has the meaning assigned by section 35(2);²¹⁰

“**transportation device**” means any space object, any launch vehicle of the space object or any component parts of the vehicle, space object or launch vehicle;²¹¹

“**uranium enriched in the isotope 235 or 233**” means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;²¹²

“**vehicle**”, except in sections 37 to 41 and Schedule 7, includes an aircraft, hovercraft, train or vessel.

- (2) In this Act, references to the public —
- (a) are references to the public of any country or territory, or any section of the public; and
 - (b) except in construing the definition of “radioactive material” in section 62A, also include references to a meeting or other group of persons which is open to the public (whether unconditionally or on the making of a payment or the satisfaction of other conditions).²¹³

76 Index of defined expressions

[P2000/11/122]

In this Act the expressions listed below are defined by the provisions specified.²¹⁴

<i>Expression</i>	<i>Interpretation provision</i>
Act	Section 75
Act of terrorism	Section 1(6)
Action	Section 75
Action taken for the purposes of terrorism	Section 1(5)
Article	Section 75
Atomic energy	Section 75(1)
Authorised officer (in Schedule 3)	Paragraph 19(1) of Schedule 3
Cash (in Schedule 3)	Paragraph 1(2) of Schedule 3
Convention offence	Section 75(1)
Cordoned area	Section 20
Country (in Part IIIA)	Section 18V
Criminal investigation (in Part VIII)	Section 59(1)
Customs officer	Section 75
Department	Section 75
Detained in a hospital (in Part IIIA)	Section 18V
Device (in definition of “radioactive device”)	Section 75(1)
Disabled person’s badge (in sections 37 to 40)	Section 41
Document (in sections 32A to 32H)	Section 32I(1)
Driver (in sections 37 to 40)	Section 41
Dwelling	Section 75
Employment (in sections 11 to 15)	Section 15A(1)
Examining officer (in Schedule 7)	Paragraph 1 of Schedule 7
Explosive	Section 75
Facilitates (in sections 9 and 10)	Section 9(3)
FIU (in Part III)	Section 75
Firearm	Section 75
GCHQ (in the definition of “intelligence services”)	Section 75(1)
Home address (in Part IIIA)	Section 18V
Hospital order (in Part IIIA)	Section 18V
Immigration Act	Section 75
Immigration Acts (in Part IIIA)	Section 18V

<i>Expression</i>	<i>Interpretation provision</i>
Immigration officer	Section 75
Information (in Part VIII)	Section 59(1)
Intelligence services	Section 75(1)
International organisation	Section 75(1)
Nuclear facility	Section 75(1)
Nuclear material	Section 75(1)
Nuclear reactor	Section 75(1)
Organisation	Section 75
Parking (in sections 37 to 40)	Section 41
Passport (in Schedule 4A)	Schedule 4A paragraph 4(5)
Photograph (in Part IIIA)	Section 18V
Premises	Section 75
Prescribed (in Part IIIA)	Section 18V
Property	Section 75
Proscribed organisation	Section 2(1)
Public	Section 75(1)
Public authority (in Part VIII)	Section 59(1)
Public place	Section 75
Publish (in Part VI)	Section 49A
Radioactive device	Section 75(1)
Radioactive material	Section 75(1)
Record	Section 75(1)
Release (in Part IIIA)	Section 18V
Road	Section 75
Search powers code	Section 35(2)
Statement (in Part VI)	Section 49A
Terrorism	Section 1
Terrorist (in Part V)	Section 29
Terrorist connection	Section 1(7)
Terrorist investigation	Section 19
Terrorist organisation	Section 1(8)
Terrorist property	Section 6
Traffic sign (in sections 37 to 40)	Section 41
Transportation device	Section 75(1)
UK Act	Section 2(1)
Uranium enriched in the isotope 235 or 233	Section 75(1)
Vehicle	Section 75
Vehicle (in sections 37 to 40)	Section 41 ²¹⁵

76A Liability of officers of bodies corporate etc

- (1) This section does not apply where paragraph 8 of Schedule 6 applies or to an offence under Schedule 13.
- (2) If an offence under this Act committed by a body corporate is shown —

- (a) to have been committed with the consent or the connivance of an officer of the body corporate; or
 - (b) to be attributable to any neglect on the part of any such officer, the officer as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.
- (3) If an offence under this Act committed by a partnership is shown —
 - (a) to have been committed with the consent or the connivance of a partner; or
 - (b) to be attributable to any neglect on the part of a partner, the partner as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.
- (4) If an offence under this Act committed by an unincorporated association (other than a partnership) is shown —
 - (a) to have been committed with the consent or the connivance of an officer of the association; or
 - (b) to be attributable to any neglect on the part of any such officer, the officer as well as the association is guilty of an offence and liable to be proceeded against and punished accordingly.
- (5) If the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.
- (6) In this section —

“officer” includes —

 - (a) in relation to a body corporate, a director, manager, secretary, chief executive, member of the committee of management and its registered agent;
 - (b) in relation to an unincorporated association, any officer of the association and any member of its governing body; and
 - (c) in relation to a limited liability company constituted under the *Limited Liability Companies Act 1996*, the company's manager, the registered agent and its members,

and any person purporting to act in such a capacity;

“partner” includes a person holding himself or herself out to be a partner (within the meaning of section 16(1) of the *Partnership Act 1909*).²¹⁶

76B Compliance with international standards

- (1) The Council of Ministers may by order amend this Act in connection with the implementation of —

- (a) relevant international obligations or standards; or
 - (b) the recommendations (however described) of international bodies that are involved with the adoption, monitoring or promotion of such obligations or standards.
- (2) An order under subsection (1) may contain such consequential, supplementary, incidental and transitional provisions as the Council of Ministers considers to be necessary or expedient.
- (3) In this section —
 - “FATF” means the Financial Action Task Force;
 - “FATF Recommendations” means the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, adopted by FATF, together with any guidance or supporting documentation published by FATF;
 - “international bodies” means —
 - (a) FATF;
 - (b) the International Monetary Fund; and
 - (c) MONEYVAL;
 - “MONEYVAL” means the Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism; and
 - “relevant international obligations or standards” means the FATF Recommendations, as they have effect from time to time.
- (4) The Council of Ministers may by order amend, insert or omit definitions in subsection (3).
- (5) No order under subsection (1) may be made unless —
 - (a) the Council of Ministers has consulted such persons and bodies as it considers appropriate; and
 - (b) a draft of the proposed order has been laid before a sitting of Tynwald and that draft has been approved at a subsequent sitting of Tynwald.
- (6) An order under subsection (4) must not come into operation unless it is approved by Tynwald.²¹⁷

77 Orders etc.

[P2000/11/123]

- (1) Orders and regulations under this Act may contain savings and transitional provisions.
- (2) Orders and regulations made by the Council of Ministers, Governor in Council, the Department or the Treasury under this Act (other than an

order appointing a date for the commencement of a provision of this Act) shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the orders or regulations are laid or at the next following sitting fails to approve them, the orders or regulations shall cease to have effect.²¹⁸

- (2A) Subsection (2) does not apply to orders made under section 76B(1) or (4).²¹⁹
- (3) Pending the coming into force of any rules of court under this Act, proceedings under this Act shall be made in such manner and shall be subject to such conditions as the court receiving the application shall direct.²²⁰

78 Directions

[P2000/11/124]

A direction given under this Act may be varied or revoked by a further direction.

79 Amendments and repeals

[P2000/11/125]

- (1) Schedule 14 (consequential and miscellaneous amendments) shall have effect.
- (2) The enactments listed in Schedule 15 are repealed or revoked to the extent specified.

80 Money

[P2000/11/127]

Any expenditure of the Governor, Council of Ministers, department or statutory board under this Act shall be paid out of the General Revenue of the Island.

81 Transitional provisions

[P2000/11/129]

- (1) Where, immediately before the coming into force of section 2(1)(a), a person is being detained by virtue of a provision of the *Prevention of Terrorism Act 1990* —
 - (a) the provisions of that Act shall continue to apply to him, in place of the corresponding provisions of this Act, until his detention comes to an end, and
 - (b) nothing in paragraph 6(3) to (12) of Schedule 14 shall have effect in relation to him during his detention.
- (2) Where this Act repeals and re-enacts a provision of the *Prevention of Terrorism Act 1990* the repeal and re-enactment shall not, unless the contrary intention appears, affect the continuity of the law.

- (3) A reference in this Act or any other enactment or instrument to a provision of this Act shall (so far as the context permits) be taken to include a reference to a corresponding provision repealed by this Act.
- (4) Any document made, served or issued after the commencement of this Act which contains a reference to any provision of the *Prevention of Terrorism Act 1990* shall, so far as the context permits, be construed as referring to or (as the context may require) including a reference to the corresponding provision of this Act.
- (5) Any document made, served or issued after the commencement of this Act which contains a reference to a provision of this Act shall, so far as the context permits, be construed as referring to or (as the context may require) including a reference to the corresponding provision of the *Prevention of Terrorism Act 1990*.
- (6) Section 67 shall apply to the institution of proceedings after commencement of that section whether the offence to which the proceedings relate (which may, by virtue of subsection (3), be an offence under a provision repealed by this Act) is alleged to have been committed before or after commencement of that section.

82 Short title²²¹

This Act may be cited as the Anti-Terrorism and Crime Act 2003.^{222 223}

SCHEDULE 1²²⁴**SCHEDULE 2****FORFEITURE ORDERS**

Section 16(8)

PART 1 – FORFEITURE ORDERS*Interpretation*

1. In this Part —

“**charging order**” means an order made by the High Court under paragraph 8A,²²⁵

“**forfeiture order**” means an order made by a court in the Island under section 16, 16A or 16B,²²⁶

“**forfeited property**” means the money or other property to which a forfeiture order applies,

“**relevant offence**” means —

- (a) an offence under this Act;
- (b) an offence specified in Schedule 2A (offences where terrorist connection to be considered) as to which the court dealing with the offence has determined, in accordance with section 72B, that the offence has a terrorist connection; or
- (c) in relation to a restraint order or a charging order, any offence specified in Schedule 2A; and²²⁷

“**restraint order**” means an order made by the High Court under paragraph 5.²²⁸

Implementation of forfeiture orders

2. (1) Where a court makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may —

- (a) require any of the forfeited property to be paid or handed over to the Chief Registrar or to a constable;
- (b) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds (if any) to be paid to the Chief Registrar;
- (c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the

forfeited property, to realise it in such manner as the court may direct and to pay the proceeds to the Chief Registrar;

- (d) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the Chief Registrar to a specified person falling within section 16C(1) or such other person or body (including a person or body in a country or territory outside the Island) as the court considers appropriate.²²⁹

(1A) Without limiting the generality of paragraph 2(1)(d), the court may direct that payment under that provision be made to —

- (a) victims of terrorist offences;
- (b) victims of other crimes;
- (c) charitable organisations involved in preventing or detecting crime;
- (d) charitable organisations involved in providing support to the victims of crime.²³⁰

(2) A forfeiture order shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

(3) In sub-paragraph (1)(b) and (d) a reference to the proceeds of the sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation.

(4) After making any payment required by virtue of sub-paragraph (1)(d) and paragraph 3(1), the balance of any sums received by the Chief Registrar under a forfeiture order shall be treated for the purposes of section 1 of the *Collection of Fines etc. Act 1985* (application of fines etc.) as if it were a fine imposed by a criminal court.

3. (1) A receiver appointed under paragraph 2 shall be entitled to be paid his remuneration and expenses by the Chief Registrar out of the proceeds of the property realised by the receiver and paid to the Chief Registrar under paragraph 2(1)(c).

(2) If and so far as those proceeds are insufficient, the receiver shall be entitled to be paid his remuneration and expenses by the prosecutor.

(3) A receiver appointed under paragraph 2 shall not be liable to any person in respect of any loss or damage resulting from action —

- (a) which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property,
- (b) which he would be entitled to take if the property were forfeited property, and
- (c) which he reasonably believes that he is entitled to take because of his belief that the property is forfeited property.

(4) Sub-paragraph (3) does not apply in so far as the loss or damage is caused by the receiver's negligence.

4. (1) The Chief Registrar shall issue a certificate in respect of a forfeiture order if an application is made by —

- (a) the prosecutor in the proceedings in which the forfeiture order was made,
- (b) the defendant in those proceedings, or
- (c) a person whom the court heard under section 16C(1) before making the order.²³¹

(2) The certificate shall state the extent (if any) to which, at the date of the certificate, effect has been given to the forfeiture order.

Restraint orders

5. (1) The High Court may make a restraint order under this paragraph where —

- (a) proceedings have been instituted in the Island for a relevant offence,²³²
- (b) the proceedings have not been concluded,
- (c) an application for a restraint order is made to the High Court by the prosecutor, and
- (d) a forfeiture order has been made, or it appears to the High Court that a forfeiture order may be made, in the proceedings for the offence.

(2) The High Court may also make a restraint order under this paragraph where —

- (a) a criminal investigation has been commenced in the Island with regard to a relevant offence,²³³
- (b) an application for a restraint order is made to the High Court by the person who the High Court is satisfied will have the conduct of any proceedings for the offence, and
- (c) it appears to the High Court that a forfeiture order may be made in any proceedings for the offence.

(3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in any proceedings referred to in sub-paragraph (1) or (2).

(4) An application for a restraint order may be made to a judge of the High Court in private without notice.²³⁴

(5) In this paragraph a reference to dealing with property includes a reference to removing the property from the Island.

(6) In this paragraph, “criminal investigation” means an investigation which police officers or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.

6. (1) A restraint order shall provide for notice of it to be given to any person affected by the order.

(2) A restraint order may be discharged or varied by the High Court on the application of a person affected by it.

(3) A restraint order made under paragraph 5(1) shall in particular be discharged on an application under sub-paragraph (2) if the proceedings for the offence have been concluded.

(4) A restraint order made under paragraph 5(2) shall in particular be discharged on an application under sub-paragraph (2) —

- (a) if no proceedings in respect of relevant offences are instituted within such time as the High Court considers reasonable, and²³⁵
- (b) if all proceedings in respect of relevant offences have been concluded.²³⁶

7. (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from the Island.

(2) Property seized under this paragraph shall be dealt with in accordance with the High Court’s directions.

8. (1) The *Land Registration Act 1982* —

- (a) shall apply in relation to restraint orders as it applies in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognizances, and
- (b) shall apply in relation to applications for restraint orders as it applies in relation to other pending land actions.

(2) Where a restraint order is made under paragraph 5(1) or an application for such an order is made, the prosecutor in the proceedings for the offence shall be treated for the purposes of section 62 of the *Land Registration Act 1982* (inhibitions) as a person interested in respect of any registered land to which the restraint order or the application for the restraint order relates.

(3) Where a restraint order is made under paragraph 5(2) or an application for such an order is made, the person who the High Court is satisfied will have the conduct of any proceedings for a relevant offence shall be treated for the purposes of section 62 of that Act as a person interested in respect of any registered land to which the restraint order or the application for the restraint order relates.²³⁷

*Charging orders*²³⁸

8A. (1) The High Court may make an order imposing a charge on any specified property (being property in respect of which a forfeiture order has been or could be made) for securing the payment of money to the Treasury (“a charging order”) in the following circumstances —

- (a) proceedings have been instituted for a relevant offence or the court is satisfied that a person is to be charged for a relevant offence;
- (b) if instituted, the proceedings have not been concluded; and
- (c) a forfeiture order has been made or it appears to the court that a forfeiture order may be made in proceedings for the relevant offence.

(2) A charging order —

- (a) may be made only on an application made by or with the consent of the Attorney General;
- (b) may be made on an ex parte application to a judge of the High Court in chambers;
- (c) shall provide for notice to be given to persons affected by the order; and
- (d) may be made subject to such conditions as the court thinks fit and, without limiting the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.

(3) Upon the application of any person affected by a charging order, the court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings for the offence are concluded or the amount payment of which is secured by the charge is paid into court.

(4) The High Court may appoint a receiver to enforce a charge imposed under this paragraph.²³⁹

Compensation

9. (1) This paragraph applies where a restraint order is discharged under paragraph 6(4)(a) or where a charging order is discharged in accordance with paragraph 8A(3) because no proceedings in respect of relevant offences are instituted within such time as the High Court considers reasonable.²⁴⁰

(2) This paragraph also applies where a forfeiture order, a restraint order or a charging order is made in or in relation to proceedings for a relevant offence which —

- (a) do not result in conviction for a relevant offence,²⁴¹
- (b) result in conviction for a relevant offence in respect of which the person convicted is subsequently pardoned by Her Majesty, or²⁴²
- (c) result in conviction for a relevant offence which is subsequently quashed.²⁴³

(3) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.

(4) The High Court may order compensation to be paid to the applicant if satisfied —

- (a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,
- (b) that the person in default was or was acting as a member of the police force, or was an officer in the Attorney General's Chambers or was acting on behalf of the Attorney General,
- (c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
- (d) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(5) The High Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.

(6) Compensation payable under this paragraph shall be paid out of the General Revenue of the Island.

10. (1) This paragraph applies where —

- (a) a forfeiture order, a restraint order or a charging order is made in or in relation to proceedings for a relevant offence; and²⁴⁴
- (b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 69(2).

(2) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.

(3) The High Court may order compensation to be paid to the applicant if satisfied —

- (a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order, restraint order or charging order, and²⁴⁵
- (b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(4) Compensation payable under this paragraph shall be paid out of the General Revenue of the Island.

Proceedings for an offence: timing

11. (1) For the purposes of this Part proceedings for an offence are instituted —

- (a) when a justice of the peace issues a summons or warrant under section 4 of the *Summary Jurisdiction Act 1989* in respect of the offence;
 - (b) when a person is charged with the offence after being taken into custody without a warrant;
 - (c) if an information is preferred by the Attorney General in a case where there has been no committal proceedings, when the information is lodged in the General Registry in accordance with section 2(2) of the *Criminal Jurisdiction Act 1993*.
- (2) Where the application of sub-paragraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.
- (3) For the purposes of this Part proceedings are concluded —
- (a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the forfeited property, or
 - (b) when no forfeiture order has been made in those proceedings and there is no further possibility of one being made as a result of an appeal (disregarding any power of a court to grant leave to appeal out of time).

Enforcement of orders made elsewhere in the British Islands

12. In the following provisions of this Part of this Schedule —

“**a British Islands order**” means an order made in any part of the United Kingdom or in the Islands under a provision of the law of that part or Island corresponding to —

- (a) section 16, 16A or 16B,²⁴⁶
- (b) paragraph 5 (“a British Islands restraint order”), or
- (c) any other provision of this Part.

13. (1) Subject to the provisions of this paragraph, a British Islands order shall have effect in the law of the Island.

(2) But such an order shall be enforced in the Island only in accordance with —

- (a) the provisions of this paragraph, and
- (b) any provision made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced.

(3) On an application made to it in accordance with rules of court for registration of a British Islands order, the High Court shall direct that the order shall, in accordance with such rules, be registered in that court.

(4) Rules of court shall also make provision —

- (a) for cancelling or varying the registration of a British Islands forfeiture order when effect has been given to it, whether in the Island or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies;
- (b) for cancelling or varying the registration of a British Islands restraint order which has been discharged or varied by the court by which it was made.

(5) If a British Islands forfeiture order is registered under this paragraph the High Court shall have, in relation to that order, the same powers as a court has under paragraph 2(1) to give effect to a forfeiture order made by it and —

- (a) paragraph 3 shall apply accordingly, and
- (b) after making any payment required by virtue of paragraph 2(1)(d) or 3, the balance of any sums received by the Chief Registrar by virtue of an order made under this sub-paragraph shall be paid into the General Revenue of the Island.

(6) If a British Islands restraint order is registered under this paragraph —

- (a) paragraphs 7 and 8 shall apply as they apply to a restraint order under paragraph 5, and
- (b) the High Court shall have power to make an order under section 35 of the *High Court Act 1991* (extended power to order inspection of property, etc.) in relation to proceedings brought or likely to be brought for a British Islands restraint order as if those proceedings had been brought or were likely to be brought in the High Court.

(7) In addition, if a British Islands order is registered under this paragraph —

- (a) the High Court shall have, in relation to its enforcement, the same power as if the order had originally been made in the High Court,
- (b) proceedings for or with respect to its enforcement may be taken as if the order had originally been made in the High Court, and
- (c) proceedings for or with respect to contravention of such an order, whether before or after such registration, may be taken as if the order had originally been made in the High Court.

(8) The High Court may also make such orders or do otherwise as seems to it appropriate for the purpose of —

- (a) assisting the achievement in the Island of the purposes of a British Islands order, or
- (b) assisting a receiver or other person directed by a British Islands order to sell or otherwise dispose of property.

(9) The following documents shall be received in evidence in the Island without further proof —

- (a) a document purporting to be a copy of a British Islands order and to be certified as such by a proper officer of the court by which it was made, and
- (b) a document purporting to be a certificate for purposes corresponding to those of paragraph 4 and to be certified by a proper officer of the court concerned.

*Enforcement of orders made outside the British Islands*²⁴⁷

14. (1) The Department may by order make provision for the purpose of enabling the enforcement in the Island of external orders.

(2) An “**external order**” means an order —

- (a) which is made in a country or territory outside the British Islands, and²⁴⁸
- (b) which makes relevant provision.

(3) “**Relevant provision**” means —

- (a) provision for the forfeiture of terrorist property (“an external forfeiture order”), or
- (b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the country or territory outside the British Islands (“an external restraint order”).²⁴⁹

(4) An Order under this paragraph may, in particular, include provision —

- (a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced;
- (b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 13(1) to (8) in relation to the orders to which that paragraph applies;
- (c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the order.

(5) An order under this paragraph may also make provision with respect to anything falling to be done on behalf of the Island in a country or territory outside the British Islands in relation to proceedings in that country or territory for or in connection with the making of an external order.²⁵⁰

PART 2 – INSOLVENCY

General

15. In this Part —

“**ancillary order**” means an order made in connection with a forfeiture, other than the forfeiture order,

“**forfeiture order**” means —

- (a) an order made in the Island under section 16, 16A or 16B,²⁵¹
- (b) a British Islands forfeiture order within the meaning given in paragraph 12, or
- (c) an external forfeiture order which is enforceable in the Island, by virtue of an order made under paragraph 14,

“**forfeited property**” means the money or other property to which a forfeiture order applies, and

“**restraint order**” means —

- (a) an order made under paragraph 5,
- (b) a British Islands restraint order within the meaning given in paragraph 12, or
- (c) an external restraint order which is enforceable in the Island by virtue of an order made under paragraph 14.

Protection of creditors against forfeiture

16. (1) During the period of 6 months beginning with the making of a forfeiture order, the following shall not be finally disposed of under this Schedule —

- (a) the money to which the order applies, and
- (b) the money which represents any property to which the order applies.

(2) For the purposes of this paragraph money is finally disposed of under this Schedule when it is paid into the General Revenue of the Island.

17. (1) This paragraph applies where —

- (a) before or after a forfeiture order is made, the commencement of an insolvency occurs in qualifying insolvency proceedings,
- (b) an insolvency practitioner would, but for the forfeiture order, exercise a function in those proceedings in relation to property to which the forfeiture order applies, and
- (c) he gives written notice to the relevant officer of the matters referred to in paragraphs (a) and (b) before the end of the period of 6 months beginning with the making of the forfeiture order.

(2) Sub-paragraph (3) shall apply to —

- (a) the property in relation to which the insolvency practitioner would, but for the forfeiture order, exercise a function as described in sub-paragraph (1)(b), and

- (b) the proceeds of sale of that property.
 - (3) The property —
 - (a) shall cease to be subject to the forfeiture order and any ancillary order, and
 - (b) shall be dealt with in the insolvency proceedings as if the forfeiture order had never been made.
 - (4) But —
 - (a) the property to which sub-paragraph (3) applies is the balance remaining after the relevant officer has exercised his powers under paragraph 20(1), and
 - (b) sub-paragraph (3) shall not take effect in respect of property in relation to which the relevant officer, or any person acting in pursuance of an ancillary order, has incurred obligations until those obligations have been discharged.
 - (5) In this paragraph “the commencement of an insolvency” means —
 - (a) the making of an adjudication of bankruptcy under the *Bankruptcy Code 1892*,
 - (b) in the case of the insolvent estate of a deceased person, the making of an insolvency administration order, or
 - (c) in the case of a company —
 - (i) the passing of a resolution for its winding up, or
 - (ii) if no such resolution has been passed, the making of an order by the court for the winding up of the company.
18. (1) Where by virtue of paragraph 17(3) property falls to be dealt with in insolvency proceedings, the Treasury shall be taken to be a creditor in those proceedings to the amount or value of the property.
- (2) That debt —
 - (a) shall rank after the debts of all other creditors, and
 - (b) shall not be paid until they have been paid in full with interest under the relevant provision.
 - (3) In sub-paragraph (2)(b) the “relevant provision” means —
 - (a) in relation to a bankruptcy, section 23(4) of the *Bankruptcy Code 1892*,
 - (b) any enactment having corresponding effect in relation to the winding up of a company.
 - (4) Sub-paragraphs (2) to (3) apply notwithstanding any provision contained in or made under any other enactment.

19. (1) This paragraph applies to property which ceased to be subject to a forfeiture order by virtue of paragraph 17(3) in consequence of the making of an adjudication of bankruptcy.

(2) The property shall again become subject to the forfeiture order and, if applicable, any ancillary order if the adjudication of bankruptcy is annulled.

(3) Where the property is money or has been converted into money —

- (a) the relevant court shall make an order specifying property comprised in the estate of the bankrupt to the amount or value of the property, and
- (b) the specified property shall become subject to the forfeiture order, and any applicable ancillary order, in place of the property.

(4) In sub-paragraph (3) the “relevant court” means the court which ordered the annulment of the bankruptcy.

Expenses incurred in connection with forfeiture

20. (1) Where money or other property falls to be dealt with in accordance with paragraph 17(3), the relevant officer may —

- (a) deduct allowable forfeiture expenses from that money;
- (b) retain so much of that property as he considers necessary for the purpose of realising it and deducting allowable forfeiture expenses from the proceeds of realisation.

(2) Where property is delivered up in pursuance of paragraph 17(3) and the relevant officer has not made provision under sub-paragraph (1) for all the allowable forfeiture expenses then —

- (a) a person who has incurred allowable forfeiture expenses for which provision has not been made shall have a claim to their value in the insolvency proceedings, and
- (b) the expenses in question shall be treated for the purposes of the insolvency proceedings as if they were expenses of those proceedings.

(3) In this paragraph “allowable forfeiture expenses” —

- (a) means expenses incurred in relation to the forfeited property by the relevant officer,
- (b) means expenses incurred in relation to the forfeited property by a receiver, and administrator or other person appointed by the relevant officer,
- (c) includes sums paid or required to be paid under paragraph 2(1)(d).

Protection of insolvency practitioners

21. (1) This paragraph applies where an insolvency practitioner seizes or disposes of property which is subject to a forfeiture order or a restraint order and —

- (a) he reasonably believes that he is entitled to do so in the exercise of his functions, and
- (b) he would be so entitled if the property were not subject to a forfeiture order or a restraint order.

(2) The insolvency practitioner shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence.

(3) The insolvency practitioner shall have a lien on the property seized or the proceeds of its sale —

- (a) for such of his expenses as were incurred in connection with the insolvency proceedings in relation to which the seizure or disposal purported to take place, and
- (b) for so much of his remuneration as may be reasonably assigned for his acting in connection with those proceedings.

(4) Sub-paragraphs (1) to (3) are without prejudice to the generality of any provision contained in the Bankruptcy Acts 1892 to 1988 or in the Companies Acts 1931 to 2006.²⁵²

Insolvency practitioners outside the Island²⁵³

22. (1) The Department may by order secure that a British Islands or external insolvency practitioner has the same rights under this Part in relation to property situated in the Island as he would have if he were an insolvency practitioner in the Island.

(2) An order under this paragraph may include —

- (a) provision which modifies the rights under this Part which are to be conferred under the order;
- (b) provision as to the manner in which the rights conferred under the order are to be exercised;
- (c) provision as to the conditions subject to which those rights are to be exercised, including the obtaining of leave from a court;
- (d) provision for empowering a court granting such leave to impose such conditions as it thinks fit.

(3) In this paragraph —

“British Islands or external insolvency practitioner” means a person exercising under the insolvency law of a country or territory outside the Island functions corresponding to those exercised by insolvency practitioners under the insolvency law of the Island.²⁵⁴

“relevant country or territory” [Repealed]²⁵⁵

Interpretation

23. (1) In this Part, “**insolvency practitioner**” means a person acting in any qualifying insolvency proceedings in the Island as —

- (a) a liquidator of a company or partnership,
- (b) a trustee in bankruptcy,
- (c) an administrator of the insolvent estate of a deceased person, or
- (d) a receiver or manager of any property.

(2) In this Part, “**qualifying insolvency proceedings**” means —

- (a) any proceedings under the *Companies Act 1931* for the winding up of a company or an unregistered company and includes any voluntary winding up of a company under Part V of that Act,
- (b) any proceedings in the Island for the winding up of an insolvent partnership,
- (c) any proceedings in bankruptcy, or
- (d) any proceedings in relation to the insolvent estate of a deceased person.

(3) In this Part, “**the relevant officer**” means where the forfeiture order in question is made by a court in the Island, the Chief Registrar and in any other case means a person appointed by the court.

(4) In this Part, references to the proceeds of sale or realisation of property are references to the proceeds after deduction of the costs of sale or realisation.

(5) In this Part, “**company**” includes a limited liability company and any reference to the provisions of to the Companies Acts 1931 to 2006 include references to the corresponding provisions of the *Limited Liability Companies Act 1996*.²⁵⁶

SCHEDULE 2A²⁵⁷

**OFFENCES WHERE TERRORIST CONNECTION TO BE
CONSIDERED**

Sections 16A, 18C, 72B and 72C

[P2008/28/Sch 2]

1. An offence under any of the following sections of the *Criminal Code 1872* —

- (a) section 18 (murder);
- (b) section 19 (soliciting murder);
- (c) section 20 (manslaughter)

- (d) section 38 (maliciously administering poison etc so as to endanger life or inflict grievous bodily harm);
 - (e) section 43 (causing bodily injury by explosives);
 - (f) section 44 (using explosives etc with intent to do grievous bodily harm);
 - (g) section 45 (placing explosives with intent to do bodily injury);
 - (h) sections 60B, 60C and 60D (detention, kidnapping and hostage-taking);
 - (i) section 136 (making or having gunpowder etc with intent to commit or enable any person to commit any felony against the Act).
2. An offence under any of the following sections of the *Explosive Substances Act 1883* —
- (a) section 2 (causing explosion likely to endanger life or property);
 - (b) section 3 (attempt to cause explosion or making or keeping explosive with intent to endanger life or property);
 - (c) section 4 (making or having possession of explosives under suspicious circumstances);
 - (d) section 5 (accessories).
3. An offence under section 1 of the Biological Weapons Act 1974 (restriction on development etc of certain biological agents and toxins and of biological weapons) (of Parliament).
4. An offence under section 1 of the Taking of Hostages Act 1982 (hostage-taking) (of Parliament).
5. An offence under any of the following sections of the Aviation Security Act 1982 (of Parliament) —
- (a) section 1 (hijacking);
 - (b) section 2 (destroying, damaging or endangering safety of aircraft);
 - (c) section 3 (other acts endangering or likely to endanger safety of aircraft);
 - (d) section 4 (offences in relation to certain dangerous articles);
 - (e) section 6(2) (inducing or assisting commission of offence under section 1, 2 or 3 outside the Island).
6. An offence under any of the following sections of the Nuclear Material (Offences) Act 1983 (of Parliament) —
- (a) section 1B (offences relating to damage to the environment);
 - (b) section 1C (offences of importing or exporting etc nuclear materials: extended jurisdiction);

- (c) section 2 (offences involving preparatory acts and threats), so far as relating to an offence specified in this Schedule.

7. An offence under section 1 (endangering safety at aerodromes) of the Aviation and Maritime Security Act 1990 (of Parliament).

8. An offence under any of the following sections of the *Maritime Security Act 1995* —

- (a) section 1 (hijacking of ships);
- (b) section 2 (seizing or exercising control of fixed platforms);
- (c) section 3 (destroying ships or fixed platforms or endangering their safety);
- (d) section 6(4) (inducing or assisting the commission of an offence outside the Island), so far as relating to an offence under section 1 or 3 of that Act.

9. An offence under any of the following sections of the Chemical Weapons Act 1996 (of Parliament) —

- (a) section 2 (use etc of chemical weapons);
- (b) section 11 (premises or equipment for producing chemical weapons).

10. In this Schedule, a reference to an Act of Parliament, or a provision of an Act of Parliament, is a reference to that Act, or a provision of that Act, as it has effect in the Island.

SCHEDULE 3

FORFEITURE OF TERRORIST CASH

Section 17

[P2001/24/1 and Sch.1]

PART 1 – INTRODUCTORY

Terrorist cash

1. (1) This Schedule applies to cash (“terrorist cash”) which —
 - (a) is intended to be used for the purposes of terrorism,
 - (b) consists of resources of an organisation which is a proscribed organisation, or
 - (c) is property earmarked as terrorist property.
- (2) “**Cash**” means —

- (a) coins and notes in any currency,
 - (b) postal orders,
 - (c) cheques of any kind, including travellers' cheques,
 - (d) bankers' drafts,
 - (e) bearer bonds and bearer shares,
- found at any place in the Island.

(3) Cash also includes any kind of monetary instrument which is found at any place in the Island, if the instrument is specified by the Treasury by order.

(4) The powers conferred by this Schedule are exercisable in relation to any cash whether or not any proceedings have been brought for an offence in connection with the cash.

PART 2 – SEIZURE AND DETENTION

Seizure of cash

2. (1) An authorised officer may seize any cash if he has reasonable grounds for suspecting that it is terrorist cash.

(2) An authorised officer may also seize cash part of which he has reasonable grounds for suspecting to be terrorist cash if it is not reasonably practicable to seize only that part.

Detention of seized cash

3. (1) While the authorised officer continues to have reasonable grounds for his suspicion, cash seized under this Schedule may be detained initially for a period of 48 hours.

(1A) In determining the period of 48 hours specified in sub-paragraph (1) there shall be disregarded –

- (a) any Saturday or Sunday;
- (b) Christmas Day;
- (c) Good Friday;
- (d) any day that is a bank holiday under the *Bank Holidays Act 1989*.²⁵⁸

(2) The period for which the cash or any part of it may be detained may be extended by an order made by the High Bailiff; but the order may not authorise the detention of any of the cash –

- (a) beyond the end of the period of 3 months beginning with the date of the order,
- (b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order.

(3) An order under sub-paragraph (2) must provide for notice to be given to persons affected by it.

(4) An application for an order under sub-paragraph (2) may be made by the Treasury or an authorised officer, and the High Bailiff may make the order if satisfied, in relation to any cash to be further detained, that one of the following conditions is met.

(5) The first condition is that there are reasonable grounds for suspecting that the cash is intended to be used for the purposes of terrorism and that either —

- (a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in the Island or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

(6) The second condition is that there are reasonable grounds for suspecting that the cash consists of resources of a proscribed organisation and that either —

- (a) its continued detention is justified while investigation is made into whether or not it consists of such resources or consideration is given to bringing (in the Island or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

(7) The third condition is that there are reasonable grounds for suspecting that the cash is property earmarked as terrorist property and that either —

- (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the Island or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

Payment of detained cash into an account

4. (1) If cash is detained under this Schedule for more than 48 hours (determined in accordance with paragraph 3(1A)), it is to be held in an interest-bearing account and the interest accruing on it is to be added to it on its forfeiture or release.²⁵⁹

(2) In the case of cash seized under paragraph 2(2), the authorised officer must, on paying it into the account, release so much of the cash then held in the account as is not attributable to terrorist cash.

(3) Sub-paragraph (1) does not apply if the cash is required as evidence of an offence or evidence in proceedings under this Schedule.

Release of detained cash

5. (1) This paragraph applies while any cash is detained under this Schedule.
- (2) The High Bailiff may direct the release of the whole or any part of the cash if satisfied, on an application by the person from whom it was seized, that the conditions in paragraph 3 for the detention of cash are no longer met in relation to the cash to be released.
- (3) An authorised officer may, after notifying the High Bailiff, release the whole or any part of the cash if satisfied that the detention of the cash to be released is no longer justified.
- (4) But cash is not to be released —
- (a) if an application is made for its forfeiture under paragraph 6, or for its release under paragraph 9, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded,
 - (b) if (in the Island or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until those proceedings are concluded.

PART 3 – FORFEITURE*Forfeiture*

6. (1) While cash is detained under this Schedule, an application for the forfeiture of the whole or any part of it may be made to the High Bailiff by the Treasury or an authorised officer.
- (2) The High Bailiff may order the forfeiture of the cash or any part of it if satisfied that the cash or part is terrorist cash.
- (3) In the case of property earmarked as terrorist property which belongs to joint tenants one of whom is an excepted joint owner, the order may not apply to so much of it as the High Bailiff thinks is attributable to the excepted joint owner's share.
- (4) An excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him) be earmarked; and references to his share of the earmarked property are to so much of the property as would have been his if the joint tenancy had been severed.

Appeal against decision in forfeiture proceedings²⁶⁰

7. (1) A party to proceedings for an order under paragraph 6 (“a forfeiture order”) who is aggrieved by a forfeiture order made in the proceedings or by the decision of the court not to make a forfeiture order may appeal to the High Court.

(2) The appeal must be brought before the end of the period of 30 days beginning with the date on which the order is made or, as the case may be, the decision is given.

This is subject to paragraph 7A (extended time for appealing in certain cases of depreservation).

(3) The High Court may make any order that appears to it to be appropriate.

(4) If an appeal against a forfeiture order is upheld, the High Court may order the release of the cash.²⁶¹

Extended time for appealing in certain cases where depreservation order made²⁶²

7A. (1) This paragraph applies where —

- (a) a successful application for a forfeiture order relies (wholly or partly) on the fact that an organisation is proscribed;
- (b) an application under section 4 of the UK Act for a depreservation order in respect of the organisation is refused by the Secretary of State;
- (c) the forfeited cash is seized under this Schedule on or after the date of the refusal of that application;
- (d) an appeal against that refusal is allowed under section 5 of that Act;
- (e) a depreservation order is made accordingly; and
- (f) if the order is made in reliance on section 123(5) of that Act, a resolution is passed by each House of Parliament under section 123(5)(b).

(2) Where this paragraph applies, an appeal under paragraph 7 against the forfeiture order may be brought at any time before the end of the period of 30 days beginning with the date on which the depreservation order comes into force.

(3) In this paragraph a “depreservation order” means an order under section 3(3)(b) or (8) of the UK Act.²⁶³

Application of forfeited cash

8. Cash forfeited under this Schedule, and any accrued interest on it is to be paid into the General Revenue of the Island but it is not to be paid in —

- (a) before the end of the period within which an appeal under paragraph 7 may be made, or
- (b) if a person appeals under that paragraph, before the appeal is determined or otherwise disposed of.

PART 4 – MISCELLANEOUS*Victims*

9. (1) A person who claims that any cash detained under this Schedule, or any part of it, belongs to him may apply to High Bailiff for the cash or part to be released to him.

(2) The application may be made in the course of proceedings under paragraph 3 or 6 or at any other time.

(3) If it appears to the High Bailiff that –

- (a) the applicant was deprived of the cash claimed, or of property which it represents, by criminal conduct,
- (b) the property he was deprived of was not, immediately before he was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property, and
- (c) the cash claimed belongs to him,

the High Bailiff must order the cash to be released to the applicant.

Compensation

10. (1) If no forfeiture order is made in respect of any cash detained under this Schedule, the person to whom the cash belongs or from whom it was seized may make an application to the High Bailiff for compensation.

(2) If, for any period after the initial detention of the cash for 48 hours (determined in accordance with paragraph 3(1A)), the cash was not held in an interest-bearing account while detained, the High Bailiff may order an amount of compensation to be paid to the applicant.²⁶⁴

(3) The amount of compensation to be paid under sub-paragraph (2) is the amount the High Bailiff thinks would have been earned in interest in the period in question if the cash had been held in an interest-bearing account.

(4) If the High Bailiff is satisfied that, taking account of any interest to be paid under this Schedule or any amount to be paid under sub-paragraph (2), the applicant has suffered loss as a result of the detention of the cash and that the circumstances are exceptional, the High Bailiff may order compensation (or additional compensation) to be paid to him.

(5) The amount of compensation to be paid under sub-paragraph (4) is the amount the High Bailiff thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

(6) The compensation is to be paid by the Treasury out of the General Revenue of the Island.

(7) If a forfeiture order is made in respect only of a part of any cash detained under this Schedule, this paragraph has effect in relation to the other part.

(8) This paragraph does not apply if the High Bailiff makes an order under paragraph 9.

PART 5 – PROPERTY EARMARKED AS TERRORIST PROPERTY

Property obtained through terrorism

11. (1) A person obtains property through terrorism if he obtains property by or in return for acts of terrorism, or acts carried out for the purposes of terrorism.

(2) In deciding whether any property was obtained through terrorism —

- (a) it is immaterial whether or not any money, goods or services were provided in order to put the person in question in a position to carry out the acts,
- (b) it is not necessary to show that the act was of a particular kind if it is shown that the property was obtained through acts of one of a number of kinds, each of which would have been an act of terrorism, or an act carried out for the purposes of terrorism.

Property earmarked as terrorist property

12. (1) Property obtained through terrorism is earmarked as terrorist property.

(2) But if property obtained through terrorism has been disposed of (since it was so obtained), it is earmarked as terrorist property only if it is held by a person into whose hands it may be followed.

(3) Earmarked property may be followed into the hands of a person obtaining it on a disposal by —

- (a) the person who obtained the property through terrorism, or
- (b) a person into whose hands it may (by virtue of this sub-paragraph) be followed.

Tracing property

13. (1) Where property obtained through terrorism (“the original property”) is or has been earmarked as terrorist property, property which represents the original property is also earmarked.

(2) If a person enters into a transaction by which —

- (a) he disposes of the earmarked property, whether the original property or property which (by virtue of this Part) represents the original property, and
- (b) he obtains other property in place of it,

the other property represents the original property.

(3) If a person disposes of earmarked property which represents the original property, the property may be followed into the hands of the person who obtains it (and it continues to represent the original property).

Mixing property

14. (1) Sub-paragraph (2) applies if a person's property which is earmarked as terrorist property is mixed with other property (whether his property or another's).

(2) The portion of the mixed property which is attributable to the property earmarked as terrorist property represents the property obtained through terrorism.

(3) Property earmarked as terrorist property is mixed with other property if (for example) it is used —

- (a) to increase funds held in a bank account,
- (b) in part payment for the acquisition of an asset,
- (c) for the restoration or improvement of land,
- (d) by a person holding a leasehold interest in the property to acquire the freehold.

Accruing profits

15. (1) This paragraph applies where a person who has property earmarked as terrorist property obtains further property consisting of profits accruing in respect of the earmarked property.

(2) The further property is to be treated as representing the property obtained through terrorism.

General exceptions

16. (1) If —

- (a) a person disposes of property earmarked as terrorist property, and
- (b) the person who obtains it on the disposal does so in good faith, for value and without notice that it was earmarked,

the property may not be followed into that person's hands and, accordingly, it ceases to be earmarked.

(2) If —

- (a) in pursuance of a judgment in civil proceedings (whether in the Island or elsewhere), the defendant makes a payment to the claimant or the claimant otherwise obtains property from the defendant,
- (b) the claimant's claim is based on the defendant's criminal conduct, and

- (c) apart from this sub-paragraph, the sum received, or the property obtained, by the claimant would be earmarked as terrorist property,
the property ceases to be earmarked.
- (3) If —
 - (a) a payment is made to a person in pursuance of a compensation order under Schedule 6 to the *Criminal Law Act 1981*, and
 - (b) apart from this sub-paragraph, the sum received would be earmarked as terrorist property,
the property ceases to be earmarked.
- (4) If —
 - (a) a payment is made to a person in pursuance of a restitution order under section 30 of the *Theft Act 1981* or a person otherwise obtains any property in pursuance of such an order, and
 - (b) apart from this sub-paragraph, the sum received, or the property obtained, would be earmarked as terrorist property,
the property ceases to be earmarked.
- (5) If —
 - (a) in pursuance of an order made by the court under section 20(4) of the *Financial Services Act 2008*, an amount is paid to or distributed among any persons in accordance with the court's directions, and²⁶⁵
 - (b) apart from this sub-paragraph, the sum received by them would be earmarked as terrorist property,
the property ceases to be earmarked.
- (6) If —
 - (a) in pursuance of an order made by the court under section 39(3) of the *Insurance Act 2008* (restitution orders), an amount is paid to or distributed among any persons in accordance with the court's directions, and²⁶⁶
 - (b) apart from this sub-paragraph, the sum received by them would be earmarked as terrorist property,
the property ceases to be earmarked.
- (7) Where —
 - (a) a person enters into a transaction to which paragraph 13(2) applies, and
 - (b) the disposal is one to which sub-paragraph (1) applies,

this paragraph does not affect the question whether (by virtue of paragraph 13(2)) any property obtained on the transaction in place of the property disposed of is earmarked.

PART 6 – INTERPRETATION

Property

17. (1) Property is all property wherever situated and includes —
- (a) money,
 - (b) all forms of property, real or personal, heritable or moveable,
 - (c) things in action and other intangible or incorporeal property.
- (2) Any reference to a person's property (whether expressed as a reference to the property he holds or otherwise) is to be read as follows.
- (3) In relation to land, it is a reference to any interest which he holds in the land.
- (4) In relation to property other than land, it is a reference —
- (a) to the property (if it belongs to him), or
 - (b) to any other interest which he holds in the property.

Obtaining and disposing of property

18. (1) References to a person disposing of his property include a reference —
- (a) to his disposing of a part of it, or
 - (b) to his granting an interest in it, (or to both);
- and references to the property disposed of are to any property obtained on the disposal.
- (2) If a person grants an interest in property of his which is earmarked as terrorist property, the question whether the interest is also earmarked is to be determined in the same manner as it is on any other disposal of earmarked property.
- (3) A person who makes a payment to another is to be treated as making a disposal of his property to the other, whatever form the payment takes.
- (4) Where a person's property passes to another under a will or intestacy or by operation of law, it is to be treated as disposed of by him to the other.
- (5) A person is only to be treated as having obtained his property for value in a case where he gave unexecuted consideration if the consideration has become executed consideration.

General interpretation

19. (1) In this Schedule —

“**authorised officer**” means a constable, a customs officer, an immigration officer or a person authorised by the Attorney General,

“**cash**” has the meaning given by paragraph 1,

“**criminal conduct**” means conduct which constitutes an offence in the Island, or would constitute an offence in the Island if it occurred there,

“**forfeiture order**” has the meaning given by paragraph 7,

“**interest**”, in relation to land, means any legal estate and any equitable interest or power,

“**interest**”, in relation to property other than land, includes any right (including a right to possession of the property),

“**part**”, in relation to property, includes a portion,

“**property obtained through terrorism**” has the meaning given by paragraph 11,

“**property earmarked as terrorist property**” is to be read in accordance with Part 5,

“**terrorist cash**” has the meaning given by paragraph 1,

“**value**” means market value.

(2) Paragraphs 17 and 18 and the following provisions apply for the purposes of this Schedule.

(3) For the purpose of deciding whether or not property was earmarked as terrorist property at any time (including times before commencement), it is to be assumed that this Schedule was in force at that and any other relevant time.

(4) References to anything done or intended to be done for the purposes of terrorism include anything done or intended to be done for the benefit of a proscribed organisation.

(5) An organisation’s resources include any cash which is applied or made available, or is to be applied or made available, for use by the organisation.

(6) Proceedings against any person for an offence are concluded when —

- (a) the person is convicted or acquitted,
- (b) the prosecution is discontinued, or
- (c) the jury is discharged without a finding.

SCHEDULE 4

ACCOUNT MONITORING ORDERS

[P2000/11/Sch.6A]

Section 18

Introduction

1. (1) In this Schedule —

“**the court**” is the High Court;

“**an appropriate officer**” is a police officer or a person authorised in writing by the Attorney General;

“**financial institution**” means —

- (a) a person who carries on the regulated activity of deposit taking under the *Financial Services Act 2008*;²⁶⁷
 - (b) a building society within the meaning of the *Industrial and Building Societies Act 1892*;
 - (c) a credit union within the meaning of the *Credit Unions Act 1993*;
 - (d) a person who carries on the regulated activity of investment business or services to collective investment schemes under the *Financial Services Act 2008*;²⁶⁸
 - (e) the National Savings Bank;
 - (f) a person who carries out any activity for the purpose of raising money authorised to be raised under the *Isle of Man Loans Act 1974* or the *National Loans Act 1968* (an Act of Parliament)) under the auspices of the Director of Savings;²⁶⁹
 - (g) a European institution carrying on a home-regulated activity within the meaning of the Second Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions;
 - (h) a person carrying out an activity specified in any of points 1 to 12 and 14 of the Annex to that Directive, ignoring an activity described in any of sub-paragraphs (a) to (g) above;
 - (i) insurance business within the meaning of the *Insurance Act 2008*;²⁷⁰
 - (j) any person who, in the course of a business, holds or manages any assets belonging to a client.²⁷¹
- (2) The Treasury may by order amend sub-paragraph (1).

Account monitoring orders

2. (1) A judge of the High Court may, on an application made to him by an appropriate officer, make an account monitoring order if he is satisfied that —

- (a) the order is sought for the purposes of a terrorist investigation,
- (b) the tracing of terrorist property is desirable for the purposes of the investigation, and
- (c) the order will enhance the effectiveness of the investigation.²⁷²

(2) The application for an account monitoring order must state that the order is sought against the financial institution specified in the application in relation to information which —

- (a) relates to an account or accounts held at the institution by the person specified in the application (whether solely or jointly with another), and
- (b) is of the description so specified.

(3) The application for an account monitoring order may specify information relating to —

- (a) all accounts held by the person specified in the application for the order at the financial institution so specified,
- (b) a particular description, or particular descriptions, of accounts so held, or
- (c) a particular account, or particular accounts, so held.

(4) An account monitoring order is an order that the financial institution specified in the application for the order must —

- (a) for the period specified in the order,
- (b) in the manner so specified,
- (c) at or by the time or times so specified, and
- (d) at the place or places so specified,

provide information of the description specified in the application to an appropriate officer.

(5) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

Applications

3. (1) An application for an account monitoring order may be made *ex parte* to a judge of the High Court in private.²⁷³

(2) The description of information specified in an application for an account monitoring order may be varied by the person who made the application.

(3) The description of information specified in the application may be varied by any appropriate officer.

Discharge or variation

4. (1) An application to discharge or vary an account monitoring order may be made to the court by —

- (a) any appropriate officer;
- (b) any person affected by the order.

(2) The court —

- (a) may discharge the order;
- (b) may vary the order.

Rules of court

5. Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to account monitoring orders.

Effect of orders

6. (1) An account monitoring order has effect as if it were an order of the High Court.

(2) An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed).

Statements

7. (1) A statement made by a financial institution in response to an account monitoring order may not be used in evidence against it in criminal proceedings.

(2) But sub-paragraph (1) does not apply —

- (a) in the case of proceedings for contempt of court;
- (b) in the case of proceedings under section 16, 16A or 16B where the financial institution has been convicted of an offence to which section 16, 16A or 16B (as appropriate) applies;²⁷⁴
- (c) on a prosecution for an offence where, in giving evidence, the financial institution makes a statement inconsistent with the statement mentioned in sub-paragraph (1).

(3) A statement may not be used by virtue of sub-paragraph (2)(c) against a financial institution unless —

- (a) evidence relating to it is adduced, or
- (b) a question relating to it is asked,

by or on behalf of the financial institution in the proceedings arising out of the prosecution.

SCHEDULE 4A²⁷⁵

TRAVEL RESTRICTION ORDERS

[P2008/28/Sch 5]

Section 18U

Introductory

1. A travel restriction order is an order prohibiting the person to whom it applies from doing whichever of the following is specified in the order —

- (a) travelling to a country outside the Island named or described in the order;
- (b) travelling to any country outside the Island other than a country named or described in the order;
- (c) travelling to any country outside the Island.

Conditions for making a travel restriction order

2. (1) The conditions for making a travel restriction order in respect of a person are as follows.

(2) The first condition is that the notification requirements apply to the person.

(3) The second condition is that the person's behaviour since the person was dealt with for the offence by virtue of which those requirements apply makes it necessary for a travel restriction order to be made to prevent the person from taking part in terrorism activity outside the Island.

(4) If the person was dealt with for the offence before the commencement of this Part, the condition in sub-paragraph (3) is not met unless the person has acted in that way since the commencement of this Part.

(5) If on an application for a travel restriction order the court is satisfied that the conditions in sub-paragraphs (2) and (3) are met, it may make a travel restriction order.

Application for travel restriction order

3. (1) An application for a travel restriction order in respect of a person may be made only by the Chief Constable.

(2) The application must be made by complaint to a court of summary jurisdiction.

Provisions of a travel restriction order

4. (1) A travel restriction order may prohibit the person to whom it applies —
- (a) from travelling to any country outside the Island named or described in the order; or
 - (b) from travelling to any country outside the Island other than a country named or described in the order; or
 - (c) from travelling to any country outside the Island.
- (2) The order may impose only such prohibitions as are necessary for the purpose of preventing the person from taking part in terrorism activity outside the Island.
- (3) A travel restriction order containing a prohibition within subparagraph (1)(c) must require the person to whom it applies to surrender all that person's passports, at a police station specified in the order —
- (a) on or before the date when the prohibition takes effect; or
 - (b) within a period specified in the order.
- (4) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a travel restriction order containing such a prohibition.
- (5) In this Schedule “**passport**” means —
- (a) a United Kingdom passport within the meaning of the Immigration Act 1971, of Parliament (as that Act has effect in the Island); or
 - (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom or by or on behalf of an international organisation,

and includes any document that can be used (in some or all circumstances) instead of a passport.

Duration of travel restriction order

5. (1) A travel restriction order has effect for a fixed period of not more than 6 months.
- (2) The period must be specified in the order.
- (3) A travel restriction order ceases to have effect if a court (whether the same or another court) makes another travel restriction order in relation to the person to whom the earlier order applies.

Variation, renewal or discharge of order

6. (1) An application for an order varying, renewing or discharging a travel restriction order may be made by —

- (a) the person subject to the order; or
- (b) the Chief Constable.

(2) The application must be made by complaint to a court of summary jurisdiction.

(3) On an application under this paragraph the court may make such order varying, renewing or discharging the travel restriction order as it considers appropriate.

(4) Before doing so it must hear the person making the application and (if he or she wishes to be heard) the other person mentioned in subparagraph (1).

Provisions of renewed or varied order

7. (1) A travel restriction order may be renewed, or varied so as to impose additional prohibitions, but only if it is necessary to do so for the purpose of preventing the person subject to the order from taking part in terrorism activities outside the Island.

(2) Any renewed or varied order may contain only the prohibitions necessary for that purpose.

Appeals

8. (1) A person against whom a travel restriction order is made may appeal against the making of the order.

(2) A person subject to a travel restriction order may appeal against —

- (a) an order under paragraph 6 varying or renewing the order; or
- (b) a refusal to make an order under that paragraph varying or discharging the order.

(3) The appeal lies to the High Court.

(4) On an appeal under this paragraph the court may make —

- (a) such orders as it considers necessary to give effect to its determination of the appeal; and
- (b) such incidental and consequential orders as appear to it to be just.

Breach of travel restriction order an offence

9. (1) A person commits an offence who, without reasonable excuse —

- (a) does anything he or she is prohibited from doing by a travel restriction order; or
- (b) fails to comply with a requirement imposed on him or her by such an order.

(2) A person guilty of an offence under this paragraph is liable —

- (a) on summary conviction, to custody for not more than 12 months, a fine not exceeding level 5 on the standard scale, or both;²⁷⁶

- (b) on conviction on information, to custody for not more than 5 years, a fine, or both.
- (3) Where a person is convicted of an offence under this paragraph, it is not open to the court by or before which the person is convicted to make an order for conditional discharge in respect of the offence.

Meaning of “terrorism activity”

10. In this Schedule “**terrorism activity**” means anything that —
- (a) if done in the Island, would constitute an offence to which this Part applies by virtue of section 18B; or
 - (b) is, or takes place in the course of, an act of terrorism or is for the purposes of terrorism.

SCHEDULE 5

TERRORIST INVESTIGATIONS: INFORMATION OR EVIDENCE²⁷⁷

Section 24

PART I – SEARCHES

1. (1) A constable may apply to a justice of the peace for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.
- (2) A warrant under this paragraph shall authorise any constable —
- (a) to enter premises mentioned in sub-paragraph (2A),²⁷⁸
 - (b) to search the premises and any person found there, and
 - (c) to seize and retain any relevant material which is found on a search under paragraph (b).
- (2A) The premises referred to in sub-paragraph (2)(a) are —
- (a) one or more sets of premises specified in the application (in which case the application is for a “specified premises warrant”); or
 - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).²⁷⁹
- (3) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that —
- (a) it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and

- (b) it must be seized in order to prevent it from being concealed, lost, damaged, altered or destroyed.
- (4) A warrant under this paragraph shall not authorise —
 - (a) the seizure and retention of items subject to legal privilege, or
 - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
- (5) Subject to paragraph 2, a justice may grant an application under this paragraph if satisfied —
 - (a) that the warrant is sought for the purposes of a terrorist investigation,
 - (b) that there are reasonable grounds for believing that there is material on premises to which the application relates which is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation and which does not consist of or include excepted material (within the meaning of paragraph 4),²⁸⁰
 - (c) that the issue of a warrant is likely to be necessary in the circumstances of the case, and
 - (d) in the case of an application for an all premises warrant, that it is not reasonably practicable to specify in the application all the premises which the person so specified occupies or controls and which might need to be searched.²⁸¹

2. (1) This paragraph applies where an application for a specific premises warrant is made under paragraph 1 and —

- (a) the application is made by a police officer of at least the rank of chief inspector,
- (b) the application does not relate to residential premises, and
- (c) the justice to whom the application is made is not satisfied of the matter referred to in paragraph 1(5)(c).²⁸²

(2) The justice may grant the application if satisfied of the matters referred to in paragraph 1(5)(a) and (b).

(3) Where a warrant under paragraph 1 is issued by virtue of this paragraph, the powers under paragraph 1(2)(a) and (b) are exercisable only within the period of 24 hours beginning with the time when the warrant is issued.

(4) For the purpose of sub-paragraph (1) “residential premises” means any premises which the officer making the application has reasonable grounds for believing are used wholly or mainly as a dwelling.

2A. (1) This paragraph applies where an application for an all premises warrant is made under paragraph 1 and —

- (a) the application is made by a police officer of at least the rank of chief inspector, and
 - (b) the justice to whom the application is made is not satisfied of the matter referred to in paragraph 1(5)(c).
 - (2) The justice may grant the application if satisfied of the matters referred to in paragraph 1(5)(a), (b) and (d).
 - (3) Where a warrant under paragraph 1 is issued by virtue of this paragraph, the powers under paragraph 1(2)(a) and (b) are exercisable only —
 - (a) in respect of premises which are not residential premises; and
 - (b) within the period of 24 hours beginning with the time when the warrant is issued.
 - (4) For the purpose of sub-paragraph (3) “residential premises”, in relation to a power under paragraph 1(2)(a) or (b), means any premises which the constable exercising the power has reasonable grounds for believing are used wholly or mainly as a dwelling.²⁸³
3. (1) Subject to sub-paragraph (2), a police officer of at least the rank of Chief Inspector may by a written authority signed by him authorise a search of specified premises which are wholly or partly within a cordoned area.
- (2) A constable who is not of the rank required by sub-paragraph (1) may give an authorisation under this paragraph if he considers it necessary by reason of urgency.
- (3) An authorisation under this paragraph shall authorise any constable —
- (a) to enter the premises specified in the authority,
 - (b) to search the premises and any person found there, and
 - (c) to seize and retain any relevant material (within the meaning of paragraph 1(3)) which is found on a search under paragraph (b).
- (4) The powers under sub-paragraph (3)(a) and (b) may be exercised —
- (a) on one or more occasions, and
 - (b) at any time during the period when the designation of the cordoned area under section 20 has effect.
- (5) An authorisation under this paragraph shall not authorise —
- (a) the seizure and retention of items subject to legal privilege, or
 - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
- (6) An authorisation under this paragraph shall not be given unless the person giving it has reasonable grounds for believing that there is material to be found on the premises which —
- (a) is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and
 - (b) does not consist of or include excepted material.

(7) A person commits an offence if he intentionally obstructs a search under this paragraph.

(8) A person guilty of an offence under sub-paragraph (7) shall be liable on summary conviction to custody for a term not exceeding 3 months, or to a fine not exceeding level 4 on the standard scale, or to both.²⁸⁴

Excepted material

4. In this Part —

- (a) “**excluded material**” has the meaning given by section 14 of the *Police Powers and Procedures Act 1998*,
- (b) “**items subject to legal privilege**” has the meaning given by section 13 of that Act, and
- (c) “**special procedure material**” has the meaning given by section 17 of that Act;

and material is “**excepted material**” if it falls within any of paragraphs (a) to (c).

Excluded and special procedure material: production and access

5. (1) A constable may apply to a judge of the High Court for an order under this paragraph for the purposes of a terrorist investigation.²⁸⁵

(2) An application for an order shall relate to particular material, or material of a particular description, which consists of or includes excluded material or special procedure material.

(3) An order under this paragraph may require a specified person —

- (a) to produce to a constable within a specified period for seizure and retention any material which he has in his possession, custody or power and to which the application relates;
- (b) to give a constable access to any material of the kind mentioned in paragraph (a) within a specified period;
- (c) to state to the best of his knowledge and belief the location of material to which the application relates if it is not in, and it will not come into, his possession, custody or power within the period specified under paragraph (a) or (b).

(4) For the purposes of this paragraph —

- (a) an order may specify a person only if he appears to the judge of the High Court to have in his possession, custody or power any of the material to which the application relates, and²⁸⁶
- (b) a period specified in an order shall be the period of 7 days beginning with the date of the order unless it appears to the judge of the High Court that a different period would be appropriate in the particular circumstances of the application.²⁸⁷

(5) Where a judge of the High Court makes an order under subparagraph (3)(b) in relation to material on any premises, he may, on the application of a constable, order any person who appears to the judge of the High Court to be entitled to grant entry to the premises to allow any constable to enter the premises to obtain access to the material.²⁸⁸

6. (1) A judge of the High Court may grant an application under paragraph 5 if satisfied —

- (a) that the material to which the application relates consists of or includes excluded material or special procedure material,
- (b) that it does not include items subject to legal privilege, and
- (c) that the conditions in sub-paragraphs (2) and (3) are satisfied in respect of that material.²⁸⁹

(2) The first condition is that —

- (a) the order is sought for the purposes of a terrorist investigation, and
- (b) there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(3) The second condition is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or that access to it should be given having regard —

- (a) to the benefit likely to accrue to a terrorist investigation if the material is obtained, and
- (b) to the circumstances under which the person concerned has any of the material in his possession, custody or power.

7. (1) An order under paragraph 5 may be made in relation to —

- (a) material consisting of or including excluded or special procedure material which is expected to come into existence within the period of 28 days beginning with the date of the order;
- (b) a person who the judge of the High Court thinks is likely to have any of the material to which the application relates in his possession, custody or power within that period.²⁹⁰

(2) Where an order is made under paragraph 5 by virtue of this paragraph, paragraph 5(3) shall apply with the following modifications —

- (a) the order shall require the specified person to notify a named constable as soon as is reasonably practicable after any material to which the application relates comes into his possession, custody or power,
- (b) the reference in paragraph 5(3)(a) to material which the specified person has in his possession, custody or power shall be taken as a

reference to the material referred to in paragraph (a) above which comes into his possession, custody or power, and

- (c) the reference in paragraph 5(3)(c) to the specified period shall be taken as a reference to the period of 28 days beginning with the date of the order.

(3) Where an order is made under paragraph 5 by virtue of this paragraph, paragraph 5(4) shall not apply and the order —

- (a) may only specify a person falling within sub-paragraph (1)(b), and
- (b) shall specify the period of 7 days beginning with the date of notification required under sub-paragraph (2)(a) unless it appears to the judge of the High Court that a different period would be appropriate in the particular circumstances of the application.²⁹¹

8. (1) An order under paragraph 5 —

- (a) shall not confer any right to production of, or access to, items subject to legal privilege, and
- (b) shall have effect notwithstanding any restriction on the disclosure of information or evidence imposed by statute or otherwise.²⁹²

(2) Where the material to which an application under paragraph 5 relates consists of information or evidence contained in a computer —

- (a) an order under paragraph 5(3)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, and
- (b) an order under paragraph 5(3)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.²⁹³

9. (1) An order of a judge of the High Court under paragraph 5 shall have effect as if it were an order of the High Court.²⁹⁴

(2) High Court Rules may make provision about proceedings relating to an order under paragraph 5.

(3) In particular, the rules may make provision about the variation or discharge of an order.

Excluded or special procedure material: search

10. (1) A constable may apply to a judge of the High Court for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.²⁹⁵

(2) A warrant under this paragraph shall authorise any constable —

- (a) to enter premises mentioned in sub-paragraph (3A),²⁹⁶
- (b) to search the premises and any person found there, and

- (c) to seize and retain any relevant material which is found on a search under paragraph (b).
 - (3) A warrant under this paragraph shall not authorise —
 - (a) the seizure and retention of items subject to legal privilege;
 - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
 - (3A) The premises referred to in sub-paragraph (2)(a) are —
 - (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”); or
 - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).²⁹⁷
 - (4) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.
11. (1) A judge of the High Court may grant an application for a specific premises warrant under paragraph 10 if satisfied that an order made under paragraph 5 in relation to material on the premises specified in the application has not been complied with.²⁹⁸
- (2) A judge of the High Court may also grant an application for a specific premises warrant under paragraph 10 if satisfied that there are reasonable grounds for believing that —
- (a) there is material on premises specified in the application which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege, and
 - (b) the conditions in sub-paragraphs (3) and (4) are satisfied.²⁹⁹
- (2A) A judge of the High Court may grant an application for an all premises warrant under paragraph 10 if satisfied —
- (a) that an order made under paragraph 5 has not been complied with; and
 - (b) that the person specified in the application is also specified in the order.³⁰⁰
- (2B) A judge of the High Court may also grant an application for an all premises warrant under paragraph 10 if satisfied that there are reasonable grounds for believing —
- (a) that there is material on premises to which the application relates which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege; and
 - (b) that the conditions in sub-paragraphs (3) and (4) are met.³⁰¹

- (3) The first condition is that —
- (a) the warrant is sought for the purposes of a terrorist investigation, and
 - (b) the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(4) The second condition is that it is not appropriate to make an order under paragraph 5 in relation to the material because —

- (a) it is not practicable to communicate with any person entitled to produce the material,
- (b) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to premises to which the application for the warrant relates, or³⁰²
- (c) a terrorist investigation may be seriously prejudiced unless a constable can secure immediate access to the material.

Explanations

12. (1) A constable may apply to a judge of the High Court for an order under this paragraph requiring any person specified in the order to provide an explanation of any material —

- (a) seized in pursuance of a warrant under paragraph 1 or 10, or
- (b) produced or made available to a constable under paragraph 5.³⁰³

(2) An order under this paragraph shall not require any person to disclose any information or evidence which he would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court.³⁰⁴

(3) But a lawyer may be required to provide the name and address of his client.

(4) A statement by a person in response to a requirement imposed by an order under this paragraph —

- (a) may be made orally or in writing, and
- (b) may be used in evidence against him only on a prosecution for an offence under paragraph 13.

(5) Paragraph 9 shall apply to orders under this paragraph as it applies to orders under paragraph 5.

13. (1) A person commits an offence if, in purported compliance with an order under paragraph 12, he —

- (a) makes a statement which he knows to be false or misleading in a material particular, or
- (b) recklessly makes a statement which is false or misleading in a material particular.

- (2) A person guilty of an offence under sub-paragraph (1) shall be liable —
 - (a) on conviction on information, to custody for a term not exceeding 2 years, to a fine or to both, or
 - (b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.³⁰⁵

Urgent cases

14. (1) A police officer of at least the rank of chief inspector may by a written order signed by him give to any constable the authority which may be given by a search warrant under paragraph 1 or 10.

(2) An order shall not be made under this paragraph unless the officer has reasonable grounds for believing —

- (a) that the case is one of great emergency, and
- (b) that immediate action is necessary.

(3) Where an order is made under this paragraph particulars of the case shall be notified as soon as is reasonably practicable to the Chief Minister.

(4) A person commits an offence if he intentionally obstructs a search under this paragraph.

(5) A person guilty of an offence under sub-paragraph (4) shall be liable on summary conviction to custody for a term not exceeding 12 months, or a fine not exceeding level 5 on the standard scale or to both.³⁰⁶

15. (1) If a police officer of at least the rank of chief inspector has reasonable grounds for believing that the case is one of great emergency he may by a written notice signed by him require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under paragraph 14.

(2) Sub-paragraphs (2) to (4) of paragraph 12 and paragraph 13 shall apply to a notice under this paragraph as they apply to an order under paragraph 12.

(3) A person commits an offence if he fails to comply with a notice under this paragraph.

(4) It is a defence for a person charged with an offence under sub-paragraph (3) to show that he had a reasonable excuse for his failure.

(5) A person guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to custody for a term not exceeding 12 months, or a fine not exceeding level 5 on the standard scale, or to both.³⁰⁷

Supplementary

16. For the purposes of sections 24 and 25 of the *Police Powers and Procedures Act 1998* (seized material: access, copying and retention) —

- (a) a terrorist investigation shall be treated as an investigation of or in connection with an offence, and
- (b) material produced in pursuance of an order under paragraph 5 shall be treated as if it were material seized by a constable.

17. A warrant issued under this Schedule must be executed within 3 months of the date of issue.³⁰⁸

SCHEDULE 6

FINANCIAL INFORMATION

Section 25

Orders

1. (1) Where an order has been made under this paragraph in relation to a terrorist investigation, a constable named in the order may require a financial institution to which the order applies to provide customer information for the purposes of the investigation.

(2) The order may provide that it applies to —

- (a) all financial institutions,
- (b) a particular description, or particular descriptions, of financial institutions, or
- (c) a particular financial institution or particular financial institutions.

(3) The information shall be provided —

- (a) in such manner and within such time as the constable may specify, and
- (b) notwithstanding any restriction on the disclosure of information or evidence imposed by statute or otherwise.³⁰⁹

(4) An institution which fails to comply with a requirement under this paragraph shall be guilty of an offence.

(5) It is a defence for an institution charged with an offence under sub-paragraph (4) to prove —

- (a) that the information required was not in the institution's possession, or
- (b) that it was not reasonably practicable for the institution to comply with the requirement.

(6) An institution guilty of an offence under sub-paragraph (4) shall be liable —

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale or to custody for a term not exceeding 6 months, or to both;
- (b) on conviction on information to a fine or to custody for a term not exceeding 2 years, or to both.³¹⁰

Procedure

- 2. An order under paragraph 1 may be made only on the application of a police officer of at least the rank of chief inspector.
- 3. An order under paragraph 1 may be made only by a judge of the High Court.³¹¹
- 4. Rules of court may make provision about the procedure for an application under paragraph 1.

Criteria for making order

- 5. An order under paragraph 1 may be made only if the judge of the High Court is satisfied that —
 - (a) the order is sought for the purposes of a terrorist investigation,
 - (b) the tracing of terrorist property is desirable for the purposes of the investigation, and
 - (c) the order will enhance the effectiveness of the investigation.³¹²

Financial institution

- 6. (1) In this Schedule “**financial institution**” means —
 - (a) a person carrying on the regulated activity of deposit taking under the *Financial Services Act 2008*,³¹³
 - (b) a building society (within the meaning of section 7 of the *Industrial and Building Societies Act 1892*),
 - (c) a credit union (within the meaning of the *Credit Unions Act 1993*),
 - (d) a person carrying on the regulated activity of investment business or services to collective investment schemes under the *Financial Services Act 2008*,³¹⁴
 - (e) the National Savings Bank,
 - (f) a person who carries out an activity for the purposes of raising money authorised to be raised under the *Isle of Man Loans Act 1974* or the *National Loans Act 1968* (an Act of Parliament) under the auspices of the Director of National Savings,³¹⁵
 - (g) a European institution carrying on a home regulated activity (within the meaning of the Second Council Directive on the coordination of laws, regulations and administrative provisions

relating to the taking up and pursuit of the business of credit institutions),

- (h) a person carrying out an activity specified in any of points 1 to 12 and 14 of the Annex to that Directive, and
- (i) a person carrying on insurance business (within the meaning of the *Insurance Act 2008*);³¹⁶
- (j) any person who, in the course of a business, holds or manages any assets belonging to a client.³¹⁷

(2) The Treasury may by order provide for a class of person —

- (a) to be a financial institution for the purposes of this Schedule, or
- (b) to cease to be a financial institution for the purposes of this Schedule.

(3) An institution which ceases to be a financial institution for the purposes of this Schedule (whether by virtue of sub-paragraph (2)(b) or otherwise) shall continue to be treated as a financial institution for the purposes of any requirement under paragraph 1 to provide customer information which relates to a time when the institution was a financial institution.

Customer information

7. (1) In this Schedule “**customer information**” means (subject to sub-paragraph (3)) —

- (a) information whether a business relationship exists or existed between a financial institution and a particular person (‘a customer’),
- (b) a customer’s account number,
- (c) a customer’s full name,
- (d) a customer’s date of birth,
- (e) a customer’s address or former address,
- (f) the date on which a business relationship between a financial institution and a customer begins or ends,
- (g) any evidence of a customer’s identity obtained by a financial institution in pursuance of or for the purposes of any legislation relating to money laundering, and
- (h) the identity of a person sharing an account with a customer.

(2) For the purposes of this Schedule there is a business relationship between a financial institution and a person if (and only if) —

- (a) there is an arrangement between them designed to facilitate the carrying out of frequent or regular transactions between them, and

- (b) the total amount of payments to be made in the course of the arrangement is neither known nor capable of being ascertained when the arrangement is made.
- (3) The Treasury may by order provide for a class of information —
 - (a) to be customer information for the purposes of this Schedule, or
 - (b) to cease to be customer information for the purposes of this Schedule.

Offence by body corporate, etc.

8. (1) This paragraph applies where an offence under paragraph 1(4) is committed by an institution and it is proved that the offence —

- (a) was committed with the consent or connivance of an officer of the institution, or
- (b) was attributable to neglect on the part of an officer of the institution.³¹⁸

(2) The officer, as well as the institution, shall be guilty of the offence.

(3) Where an individual is convicted of an offence under paragraph 1(4) by virtue of this paragraph, he shall be liable on summary conviction to custody for a term not exceeding 12 months, or a fine not exceeding level 5 on the standard scale or to both.³¹⁹

(4) In the case of an institution which is a body corporate, in this paragraph “officer” includes —

- (a) a director, manager or secretary,
- (b) a person purporting to act as a director, manager or secretary,
- (c) if the affairs of the body are managed by its members, a member, and
- (d) in relation to a limited liability company constituted under the *Limited Liability Companies Act 1996*, a member, the company’s manager, or the registered agent.

(5) In the case of an institution which is a partnership, in this paragraph “officer” means a partner.

(6) In the case of an institution which is an unincorporated association (other than a partnership), in this paragraph “officer” means a person concerned in the management or control of the association.

Self-incrimination

9. (1) Customer information provided by a financial institution under this Schedule shall not be admissible in evidence in criminal proceedings against the institution or any of its officers or employees.

(2) Sub-paragraph (1) shall not apply in relation to proceedings for an offence under paragraph 1(4) (including proceedings brought by virtue of paragraph 8).

SCHEDULE 7

PORT CONTROLS

Section 28(1)

Interpretation

1. (1) In this Schedule “**examining officer**” means any of the following —
 - (a) a constable,
 - (b) an immigration officer, and
 - (c) a customs officer.
- (2) In this Schedule —

“**captain**” means master of a ship or commander of an aircraft,

“**port**” includes an airport and a hoverport,

“**ship**” includes a hovercraft, and

“**vehicle**” includes a train.
- (3) A place shall be treated as a port for the purposes of this Schedule in relation to a person if an examining officer believes that the person —
 - (a) has gone there for the purpose of embarking on a ship or aircraft, or
 - (b) has arrived there on disembarking from a ship or aircraft.

Power to stop, question and detain

2. (1) An examining officer may question a person to whom this paragraph applies for the purpose of determining whether he appears to be a person falling within section 29(1)(b).
 - (2) This paragraph applies to a person if —
 - (a) he is at a port, and
 - (b) the examining officer believes that the person’s presence at the port or in the area is connected with his entering or leaving the Island or his travelling by air within the Island.
 - (3) This paragraph also applies to a person on a ship or aircraft which has arrived at any place in the Island (whether from within or outside the Island).
 - (4) An examining officer may exercise his powers under this paragraph whether or not he has grounds for suspecting that a person falls within section 29(1)(b).
3. A person who is questioned under paragraph 2 must —
 - (a) give the examining officer any information in his possession which the officer requests;

- (b) give the examining officer on request either a valid passport which includes a photograph or another document which establishes his identity;
- (c) declare whether he has with him documents of a kind specified by the examining officer;
- (d) give the examining officer on request any document which he has with him and which is of a kind specified by the officer.

4. (1) For the purposes of exercising a power under paragraph 2 an examining officer may —

- (a) stop a person or vehicle;
- (b) detain a person.

(2) For the purpose of detaining a person under this paragraph, an examining officer may authorise the person's removal from a ship, aircraft or vehicle.

(3) Where a person is detained under this paragraph the provisions of Part I of Schedule 8 (treatment) shall apply.

(4) A person detained under this paragraph shall (unless detained under any other power) be released not later than the end of the period of 9 hours beginning with the time when his examination begins.

Searches

5. For the purpose of satisfying himself whether there are any persons whom he may wish to question under paragraph 2 an examining officer may —

- (a) search a ship or aircraft;
- (b) search anything on a ship or aircraft;
- (c) search anything which he reasonably believes has been, or is about to be, on a ship or aircraft.

6. (1) An examining officer who questions a person under paragraph 2 may, for the purpose of determining whether he falls within section 29(1)(b) —

- (a) search the person;
- (b) search anything which he has with him, or which belongs to him, and which is on a ship or aircraft;
- (c) search anything which he has with him, or which belongs to him, and which the examining officer reasonably believes has been, or is about to be, on a ship or aircraft;
- (d) search a ship or aircraft for anything falling within paragraph (b).

(2) A search of a person under this paragraph must be carried out by someone of the same sex.

7. (1) An examining officer may examine goods to which this paragraph applies for the purpose of determining whether they have been used in the commission, preparation or instigation of acts of terrorism.

(2) This paragraph applies to —

- (a) goods which have arrived in or are about to leave the Island on a ship;
- (b) goods which have arrived at or are about to leave any place in the Island on an aircraft (whether the place they have come from or are going to is within or outside the Island).

(3) In this paragraph “goods” includes —

- (a) property of any description, and
- (b) containers.

(4) An examining officer may board a ship or aircraft or enter a vehicle for the purpose of determining whether to exercise his power under this paragraph.

8. (1) An examining officer may authorise a person to carry out on his behalf a search or examination under any of paragraphs 5 to 7.

(2) A person authorised under this paragraph shall be treated as an examining officer for the purposes of —

- (a) paragraphs 7(4) and 9 of this Schedule, and
- (b) paragraphs 2 and 3 of Schedule 12.

Detention of property

9. (1) This paragraph applies to anything which —

- (a) is given to an examining officer in accordance with paragraph 3(d),
- (b) is searched or found on a search under paragraph 6, or
- (c) is examined under paragraph 7.

(2) An examining officer may detain the thing —

- (a) for the purpose of examination, for a period not exceeding 7 days beginning with the day on which the detention commences,
- (b) while he believes that it may be needed for use as evidence in criminal proceedings, or
- (c) while he believes that it may be needed in connection with a decision by the Governor whether to make a deportation order under the Immigration Act.

Designated ports

10. (1) This paragraph applies to a journey —

- (a) to the Island from any part of the British Isles, or

(b) from the Island to any part of the British Isles.

(2) Where a ship or aircraft is employed to carry passengers for reward on a journey to which this paragraph applies the owners or agents of the ship or aircraft shall not arrange for it to call at a port in the Island for the purpose of disembarking or embarking passengers unless —

- (a) the port is a designated port, or
- (b) an examining officer approves the arrangement.

(3) Where an aircraft is employed on a journey to which this paragraph applies otherwise than to carry passengers for reward, the captain of the aircraft shall not permit it to call at or leave a port in the Island unless —

- (a) the port is a designated port, or
- (b) he gives at least 12 hours' notice in writing to a constable.

(4) A designated port is a port which appears in the Table at the end of this Schedule but subject to any conditions set out in column 2 of that Table.

(5) The Council of Ministers³²⁰ may by order —

- (a) add an entry to the Table;
- (b) remove an entry from the Table.

Embarkation and disembarkation

11. (1) The Council of Ministers³²¹ may by notice in writing to the owners or agents of ships or aircraft —

- (a) designate control areas in any port in the Island;
- (b) specify conditions for or restrictions on the embarkation or disembarkation of passengers in a control area.

(2) Where owners or agents of a ship or aircraft receive notice under subparagraph (1) in relation to a port they shall take all reasonable steps to ensure, in respect of the ship or aircraft —

- (a) that passengers do not embark or disembark at the port outside a control area, and
- (b) that any specified conditions are met and any specified restrictions are complied with.

12. (1) The Council of Ministers³²² may by notice in writing to persons concerned with the management of a port in the Island (“the port managers”) —

- (a) designate control areas in the port;
- (b) require the port managers to provide at their own expense specified facilities in a control area for the purposes of the embarkation or disembarkation of passengers or their examination under this Schedule;

- (c) require conditions to be met and restrictions to be complied with in relation to the embarkation or disembarkation of passengers in a control area;
 - (d) require the port managers to display, in specified locations in control areas, notices containing specified information about the provisions of this Schedule in such form as may be specified.
 - (2) Where port managers receive notice under sub-paragraph (1) they shall take all reasonable steps to comply with any requirement set out in the notice.
13. (1) This paragraph applies to a ship employed to carry passengers for reward, or an aircraft, which —
- (a) arrives in the Island,
 - (b) leaves the Island.
- (2) The captain shall ensure —
- (a) that passengers and members of the crew do not disembark at a port in the Island unless either they have been examined by an examining officer or they disembark in accordance with arrangements approved by an examining officer;
 - (b) that passengers and members of the crew do not embark at a port in the Island except in accordance with arrangements approved by an examining officer;
 - (c) where a person is to be examined under this Schedule on board the ship or aircraft, that he is presented for examination in an orderly manner.
- (3) Where paragraph 27 of Schedule 2 to the Immigration Act (disembarkation requirements on arrival in the Island) applies, the requirements of sub-paragraph (2)(a) of this paragraph are in addition to the requirements of paragraph 27 of that Schedule.

Carding

14. (1) The Council of Ministers may by order make provision requiring a person to whom this paragraph applies, if required to do so by an examining officer, to complete and produce to the officer a card containing such information in such form as the order may specify.³²³
- (2) An order under this paragraph may require the owners or agents of a ship or aircraft employed to carry passengers for reward to supply their passengers with cards in the form required by virtue of sub-paragraph (1).
- (3) This paragraph applies to a person —
- (a) who disembarks in the Island from a ship or aircraft which has arrived in the Island,

- (b) who embarks in the Island on a ship or aircraft which is leaving or expected to leave the Island.

Provision of passenger information

15. (1) This paragraph applies to a ship or aircraft which —
- (a) arrives or is expected to arrive in any place in the Island (whether from within or outside the Island); or
 - (b) leaves or is expected to leave the Island.
- (2) If an examining officer gives the owners or agents of a ship or aircraft to which this paragraph applies a written request to provide specified information, the owners or agents shall comply with the request as soon as is reasonably practicable.
- (3) A request to an owner or agent may relate —
- (a) to a particular ship or aircraft,
 - (b) to all ships or aircraft of the owner or agent to which this paragraph applies, or
 - (c) to specified ships or aircraft.
- (4) Information may be specified in a request only if it is of a kind which is prescribed by order of the Council of Ministers³²⁴ and which relates —
- (a) to passengers,
 - (b) to crew,
 - (c) to vehicles belonging to passengers or crew,
 - (d) to goods.
- (5) A passenger or member of the crew on a ship or aircraft shall give the captain any information required for the purpose of enabling the owners or agents to comply with a request under this paragraph.
- (6) Sub-paragraphs (2) and (5) shall not require the provision of information which is required to be provided under or by virtue of paragraph 27(2) or 27B of Schedule 2 to the Immigration Act.

Offences

16. (1) A person commits an offence if he —
- (a) intentionally fails to comply with a duty imposed under or by virtue of this Schedule,
 - (b) intentionally contravenes a prohibition imposed under or by virtue of this Schedule, or
 - (c) intentionally obstructs, or seeks to frustrate, a search or examination under or by virtue of this Schedule.

(2) A person guilty of an offence under this paragraph shall be liable on summary conviction to custody for a term not exceeding 3 months, or to a fine not exceeding level 4 on the standard scale or to both.³²⁵

TABLE
DESIGNATED PORTS

PORTS	CONDITIONS
Seaports DOUGLAS PEEL	On any occasion whenever it is impracticable for the Port of Douglas to be used owing to stress of weather or other reasonable cause and due notice of not less than 2 hours duration of the intention to use the Port of Peel has been given to the Chief Constable by the captain, owners or agents of the ship.
Airports ISLE OF MAN (RONALDSWAY) AIRPORT JURBY AERODROME	

SCHEDULE 8

DETENTION

Section 30(2) and para 4(3) of Sch 7

**PART I – TREATMENT OF PERSONS DETAINED UNDER SECTION
30 OR SCHEDULE 7**

Place of detention

1. (1) The Department shall designate places at which persons may be detained under Schedule 7 or section 30.

(2) In this Schedule a reference to a police station includes a reference to any place which the Department has designated under sub-paragraph (1) as a place where a person may be detained under section 30.

(3) Where a person is detained under Schedule 7, he may be taken in the custody of an examining officer or of a person acting under an examining officer's authority to and from any place where his attendance is required for the purpose of –

- (a) his examination under that Schedule,
- (b) establishing his nationality or citizenship, or

- (c) making arrangements for his admission to a country or territory outside the Island.

(4) A constable who arrests a person under section 30 shall take him as soon as is reasonably practicable to the police station which the constable considers the most appropriate.

(5) In this paragraph “examining officer” has the meaning given in Schedule 7.

Identification

2. (1) An authorised person may take any steps which are reasonably necessary for —

- (a) photographing the detained person,
- (b) measuring him, or
- (c) identifying him.

(2) In sub-paragraph (1) “authorised person” means any of the following —

- (a) a constable,
- (b) a prison officer,
- (c) a person authorised by the Governor, and
- (d) in the case of a person detained under Schedule 7, an examining officer (within the meaning of that Schedule).

(3) This paragraph does not confer the power to take fingerprints, non-intimate samples or intimate samples (within the meaning given by paragraph 15).

Audio and video recording of interviews

3. (1) The Department shall —

- (a) issue a code of practice about the audio recording of interviews to which this paragraph applies, and
- (b) make an order requiring the audio recording of interviews to which this paragraph applies in accordance with any relevant code of practice under paragraph (a).

(2) The Department may make an order requiring the video recording of interviews to which this paragraph applies.

(3) An order under sub-paragraph (2) shall specify whether the video recording which it requires is to be silent or with sound.

(4) Where an order is made under sub-paragraph (2) —

- (a) the Department shall issue a code of practice about the video recording of interviews to which the order applies, and
- (b) the order shall require the interviews to be video recorded in accordance with any relevant code of practice under paragraph (a).

(5) Where the Department has made an order under sub-paragraph (2) requiring certain interviews to be video recorded with sound —

- (a) it need not make an order under sub-paragraph (1)(b) in relation to those interviews, but
- (b) it may do so.

(6) This paragraph applies to any interview by a constable of a person detained under Schedule 7 or section 30 if the interview takes place in a police station.

4. (1) This paragraph applies to a code of practice under paragraph 3.

(2) The failure by a constable to observe a provision of a code shall not of itself make him liable to criminal or civil proceedings.

(3) A code —

- (a) shall be admissible in evidence in criminal and civil proceedings, and
- (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

Status

5. A detained person shall be deemed to be in legal custody throughout the period of his detention.

Rights

6. (1) Subject to paragraph 8, a person detained under Schedule 7 or section 30 at a police station shall be entitled, if he so requests, to have one named person informed as soon as is reasonably practicable that he is being detained there.

(2) The person named must be —

- (a) a friend of the detained person,
- (b) a relative, or
- (c) a person who is known to the detained person or who is likely to take an interest in his welfare.

(3) Where a detained person is transferred from one police station to another, he shall be entitled to exercise the right under this paragraph in respect of the police station to which he is transferred.

7. (1) Subject to paragraphs 8 and 9, a person detained under Schedule 7 or section 30 at a police station shall be entitled, if he so requests, to consult an advocate as soon as is reasonably practicable, privately and at any time.

(2) Where a request is made under sub-paragraph (1), the request and the time at which it was made shall be recorded.

8. (1) Subject to sub-paragraph (2), an officer of at least the rank of chief inspector may authorise a delay —

- (a) in informing the person named by a detained person under paragraph 6;
- (b) in permitting a detained person to consult an advocate under paragraph 7.

(2) But where a person is detained under section 30 he must be permitted to exercise his rights under paragraphs 6 and 7 before the end of the period mentioned in subsection (3) of that section.

(3) Subject to sub-paragraph (5), an officer may give an authorisation under sub-paragraph (1) only if he has reasonable grounds for believing —

- (a) in the case of an authorisation under sub-paragraph (1)(a), that informing the named person of the detained person's detention will have any of the consequences specified in sub-paragraph (4), or
- (b) in the case of an authorisation under sub-paragraph (1)(b), that the exercise of the right under paragraph 7 at the time when the detained person desires to exercise it will have any of the consequences specified in sub-paragraph (4).

(4) Those consequences are —

- (a) interference with or harm to evidence of a serious offence,³²⁶
- (b) interference with or physical injury to any person,
- (c) the alerting of persons who are suspected of having committed a serious offence but who have not been arrested for it,³²⁷
- (d) the hindering of the recovery of property obtained as a result of a serious offence or in respect of which a forfeiture order could be made under section 16, 16A or 16B,³²⁸
- (e) interference with the gathering of information about the commission, preparation or instigation of acts of terrorism,
- (f) the alerting of a person and thereby making it more difficult to prevent an act of terrorism, and
- (g) the alerting of a person and thereby making it more difficult to secure a person's apprehension, prosecution or conviction in connection with the commission, preparation or instigation of an act of terrorism.

(5) An officer may also give an authorisation under sub-paragraph (1) if the officer has reasonable grounds for believing that —

- (a) the detained person has benefited from that person's criminal conduct; and
- (b) the recovery of the value of the property constituting the benefit will be hindered by —

- (i) informing the named person of the detained person's detention (in the case of an authorisation under sub-paragraph (1)(a)); or
- (ii) the exercise of the right under paragraph 7 (in the case of an authorisation under sub-paragraph (1)(b)).³²⁹

(5A) For the purposes of sub-paragraph (5) the question whether a person has benefited from that person's criminal conduct is to be decided in accordance with Part 2 of the *Proceeds of Crime Act 2008*.³³⁰

(6) If an authorisation under sub-paragraph (1) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

(7) Where an authorisation under sub-paragraph (1) is given —

- (a) the detained person shall be told the reason for the delay as soon as is reasonably practicable, and
- (b) the reason shall be recorded as soon as is reasonably practicable.

(8) Where the reason for authorising delay ceases to subsist there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under sub-paragraph (1).

(9) In this paragraph "serious offence" has the meaning given by section 79 of the *Police Powers and Procedures Act 1998* but it also includes —

- (a) an offence under any of the provisions mentioned in section 30(1)(a) of this Act, and
- (b) an attempt or conspiracy to commit an offence under any of the provisions mentioned in section 29(1)(a).³³¹

9. (1) A direction under this paragraph may provide that a detained person who wishes to exercise the right under paragraph 7 may consult an advocate only in the sight and hearing of a qualified officer.

(2) A direction under this paragraph may be given by the Chief Constable.

(3) A direction under this paragraph may be given only if the Chief Constable has reasonable grounds for believing —

- (a) that, unless the direction is given, the exercise of the right by the detained person will have any of the consequences specified in paragraph 8(4); or
- (b) that the detained person has benefited from his criminal conduct and that, unless the direction is given, the exercise of the right by the detained person will hinder the recovery of the value of the property constituting the benefit.³³²

(4) In this paragraph "a qualified officer" means a police officer who —

- (a) is of at least the rank of inspector,
- (b) is of the uniformed branch of the police force, and

- (c) in the opinion of the officer giving the direction, has no connection with the detained person's case.

(5) A direction under this paragraph shall cease to have effect once the reason for giving it ceases to subsist.

10. (1) This paragraph applies where a person is detained under Schedule 7 or section 30.

(2) Fingerprints may be taken from the detained person only if they are taken by a constable —

- (a) with the appropriate consent given in writing, or
- (b) without that consent under sub-paragraph (4).

(3) A non-intimate sample may be taken from the detained person only if it is taken by a constable —

- (a) with the appropriate consent given in writing, or
- (b) without that consent under sub-paragraph (4).

(4) Fingerprints or a non-intimate sample may be taken from the detained person without the appropriate consent only if —

- (a) he is detained at a police station and a police officer of at least the rank of chief inspector authorises the fingerprints or sample to be taken, or
- (b) he has been convicted of a recordable offence and, where a non-intimate sample is to be taken, he was convicted of the offence on or after 11 January 1999.

(5) An intimate sample may be taken from the detained person only if —

- (a) he is detained at a police station,
- (b) the appropriate consent is given in writing,
- (c) a police officer of at least the rank of chief inspector authorises the sample to be taken, and
- (d) subject to paragraph 13(2) and (3), the sample is taken by a constable.

(6) Subject to sub-paragraph (7), an officer may give an authorisation under sub-paragraph (4)(a) or (5)(c) only if —

- (a) in the case of a person detained under section 30, the officer reasonably suspects that the person has been involved in an offence under any of the provisions mentioned in section 29(1)(a), and the officer reasonably believes that the fingerprints or sample will tend to confirm or disprove his involvement, or
- (b) in any case, the officer is satisfied that the taking of the fingerprints or sample from the person is necessary in order to assist in determining whether he falls within section 29(1)(b).

(7) An officer may also give an authorisation under sub-paragraph (4)(a) for the taking of fingerprints if —

- (a) he is satisfied that the fingerprints of the detained person will facilitate the ascertainment of that person's identity; and
- (b) that person has refused to identify himself or the officer has reasonable grounds for suspecting that the person is not who he claims to be.

(8) In this paragraph, references to ascertaining a person's identity include references to showing that he is not a particular person.

(9) If an authorisation under sub-paragraph (4)(a) or (5)(c) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

11. (1) Before fingerprints or a sample are taken from a person under paragraph 10, he shall be informed —

- (a) that the fingerprints or sample may be used for the purposes of paragraph 14(4), section 67 of the *Police Powers and Procedures Act 1998* (checking of fingerprints and samples), and
- (b) where the fingerprints or sample are to be taken under paragraph 10(2)(a), (3)(a) or (4)(b), of the reason for taking the fingerprints or sample.

(2) Before fingerprints or a sample are taken from a person upon an authorisation given under paragraph 10(4)(a) or (5)(c), he shall be informed —

- (a) that the authorisation has been given,
- (b) of the grounds upon which it has been given, and
- (c) where relevant, of the nature of the offence in which it is suspected that he has been involved.

(3) After fingerprints or a sample are taken under paragraph 10, there shall be recorded as soon as is reasonably practicable any of the following which apply —

- (a) the fact that the person has been informed in accordance with sub-paragraphs (1) and (2),
- (b) the reason referred to in sub-paragraph (1)(b),
- (c) the authorisation given under paragraph 10(4)(a) or (5)(c),
- (d) the grounds upon which that authorisation has been given, and
- (e) the fact that the appropriate consent has been given.

12. (1) This paragraph applies where —

- (a) two or more non-intimate samples suitable for the same means of analysis have been taken from a person under paragraph 10,
- (b) those samples have proved insufficient, and
- (c) the person has been released from detention.

- (2) An intimate sample may be taken from the person if —
- (a) the appropriate consent is given in writing,
 - (b) a police officer of at least the rank of superintendent authorises the sample to be taken, and
 - (c) subject to paragraph 13(2) and (3), the sample is taken by a constable.

(3) Paragraphs 10(6) and (7) and 11 shall apply in relation to the taking of an intimate sample under this paragraph; and a reference to a person detained under section 30 shall be taken as a reference to a person who was detained under section 30 when the non-intimate samples mentioned in sub-paragraph (1)(a) were taken.

13. (1) Where appropriate written consent to the taking of an intimate sample from a person under paragraph 10 or 12 is refused without good cause, in any proceedings against that person for an offence —

- (a) the court, in determining whether to commit him for trial or whether there is a case to answer, may draw such inferences from the refusal as appear proper, and
- (b) the court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper.

(2) An intimate sample other than a sample of urine or a dental impression may be taken under paragraph 10 or 12 only by a registered medical practitioner acting on the authority of a constable.

(3) An intimate sample which is a dental impression may be taken under paragraph 10 or 12 only by a registered dentist acting on the authority of a constable.

(4) Where a sample of hair other than pubic hair is to be taken under paragraph 10 the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.

14. (1) This paragraph applies to —

- (a) fingerprints or samples taken under paragraph 10 or 12, and
- (b) information derived from those samples.

(2) The fingerprints, samples or information may be used only for the purpose of a terrorist investigation.

(3) In particular, a check may not be made against them under section 67 of the *Police Powers and Procedures Act 1998* (checking of fingerprints and samples) except for the purpose of a terrorist investigation.

(4) The fingerprints, samples or information may be checked, subject to sub-paragraph (2), against —

- (a) other fingerprints or samples taken under paragraph 10 or 12 or information derived from those samples,
- (b) relevant physical data or samples taken by virtue of paragraph 20,
- (c) any of the fingerprints, samples and information mentioned in section 67 of the *Police Powers and Procedures Act 1998* (checking of fingerprints and samples),
- (e) fingerprints or samples taken under section 13(7) of, or paragraph 7(3) of Schedule 5 to, the *Prevention of Terrorism Act 1990* or information derived from those samples.

(5) This paragraph (other than sub-paragraph (4)) shall apply to fingerprints or samples taken under section 13(7) of, or paragraph 7(3) of Schedule 5 to, the *Prevention of Terrorism Act 1990* and information derived from those samples as it applies to fingerprints or samples taken under paragraph 10 or 12 and the information derived from those samples.

15. (1) In the application of paragraphs 10 to 14 in relation to a detained person the following expressions shall have the meaning given by section 69 of the *Police Powers and Procedures Act 1998* (Part V definitions) —

- (a) “**appropriate consent**”,
- (b) “**fingerprints**”,
- (c) “**insufficient**”,
- (d) “**intimate sample**”,
- (e) “**non-intimate sample**”,
- (f) “**registered dentist**”, and
- (g) “**sufficient**”.

(2) In paragraph 10 “recordable offence” shall have the meaning given by section 81(1) of the *Police Powers and Procedures Act 1998* (general interpretation).

16. The Department shall, by order, make provision to require that —

- (a) except in such circumstances, and
- (b) subject to such conditions, as may be specified in the order, where a person detained has been permitted to consult an advocate, the advocate shall be allowed to be present at any interview carried out in connection with a terrorist investigation or for the purposes of Schedule 7.

PART II – REVIEW OF DETENTION UNDER SECTION 30

Requirement

17. (1) A person’s detention shall be periodically reviewed by a review officer.

(2) The first review shall be carried out as soon as is reasonably practicable after the time of the person's arrest.

(3) Subsequent reviews shall, subject to paragraph 18, be carried out at intervals of not more than 12 hours.

(4) No review of a person's detention shall be carried out after a warrant extending his detention has been issued under Part III.

Postponement

18. (1) A review may be postponed if at the latest time at which it may be carried out in accordance with paragraph 17 —

- (a) the detained person is being questioned by a police officer and an officer is satisfied that an interruption of the questioning to carry out the review would prejudice the investigation in connection with which the person is being detained,
- (b) no review officer is readily available, or
- (c) it is not practicable for any other reason to carry out the review.

(2) Where a review is postponed it shall be carried out as soon as is reasonably practicable.

(3) For the purposes of ascertaining the time within which the next review is to be carried out, a postponed review shall be deemed to have been carried out at the latest time at which it could have been carried out in accordance with paragraph 17.

Grounds for continued detention

19. (1) A review officer may authorise a person's continued detention only if satisfied that it is necessary —

- (a) to obtain relevant evidence whether by questioning him or otherwise,
- (b) to preserve relevant evidence,
- (ba) pending the result of an examination or analysis of any relevant evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining relevant evidence,³³³
- (c) pending a decision whether to apply to the Governor for a deportation notice to be served on the detained person,
- (d) pending the making of an application to the Governor for a deportation notice to be served on the detained person,
- (e) pending consideration by the Governor whether to serve a deportation notice on the detained person, or
- (f) pending a decision whether the detained person should be charged with an offence.

(2) The review officer shall not authorise continued detention by virtue of sub-paragraph (1)(a) or (b) unless he is satisfied that the investigation in connection with which the person is detained is being conducted diligently and expeditiously.

(3) The review officer shall not authorise continued detention by virtue of sub-paragraph (1)(c) to (f) unless he is satisfied that the process pending the completion of which detention is necessary is being conducted diligently and expeditiously.

(4) In this paragraph “relevant evidence” means evidence which —

(a) relates to the commission by the detained person of an offence under any of the provisions mentioned in section 29(1)(a), or

(b) indicates that the detained person falls within section 29(1)(b).³³⁴

(5) In sub-paragraph (1) “deportation notice” means notice of a decision to make a deportation order under the Immigration Act.

Review officer

20. (1) The review officer shall be an officer who has not been directly involved in the investigation in connection with which the person is detained.

(2) In the case of a review carried out within the period of 24 hours beginning with the time of arrest, the review officer shall be an officer of at least the rank of inspector.

(3) In the case of any other review, the review officer shall be an officer of at least the rank of superintendent.

21. (1) This paragraph applies where —

(a) the review officer is of a rank lower than chief inspector,

(b) an officer of higher rank than the review officer gives directions relating to the detained person, and

(c) those directions are at variance with the performance by the review officer of a duty imposed on him under this Schedule.

(2) The review officer shall refer the matter at once to the Chief Constable.

Representations

22. (1) Before determining whether to authorise a person’s continued detention, a review officer shall give either of the following persons an opportunity to make representations about the detention —

(a) the detained person, or

(b) an advocate representing him who is available at the time of the review.

(2) Representations may be oral or written.

(3) A review officer may refuse to hear oral representations from the detained person if he considers that he is unfit to make representations because of his condition or behaviour.

Rights

23. (1) Where a review officer authorises continued detention he shall inform the detained person —

- (a) of any of his rights under paragraphs 6 and 7 which he has not yet exercised, and
- (b) if the exercise of any of his rights under either of those paragraphs is being delayed in accordance with the provisions of paragraph 8, of the fact that it is being so delayed.

(2) Where a review of a person's detention is being carried out at a time when his exercise of a right under either of those paragraphs is being delayed —

- (a) the review officer shall consider whether the reason or reasons for which the delay was authorised continue to subsist, and
- (b) if in his opinion the reason or reasons have ceased to subsist, he shall inform the officer who authorised the delay of his opinion (unless he was that officer).

Record

24. (1) A review officer carrying out a review shall make a written record of the outcome of the review and of any of the following which apply —

- (a) the grounds upon which continued detention is authorised,
- (b) the reason for postponement of the review,
- (c) the fact that the detained person has been informed as required under paragraph 23(1),
- (d) the officer's conclusion on the matter considered under paragraph 23(2)(a),
- (e) the fact that he has taken action under paragraph 23(2)(b), and
- (f) the fact that the detained person is being detained by virtue of section 30(5) or (6).

(2) The review officer shall —

- (a) make the record in the presence of the detained person, and
- (b) inform him at that time whether the review officer is authorising continued detention, and if he is, of his grounds.

(3) Sub-paragraph (2) shall not apply where, at the time when the record is made, the detained person is —

- (a) incapable of understanding what is said to him,
- (b) violent or likely to become violent, or

- (c) in urgent need of medical attention.

PART III – EXTENSION OF DETENTION UNDER SECTION 30

Warrants of further detention

25. (1) A police officer of at least the rank of chief inspector may apply to the High Bailiff for the issue of a warrant of further detention under this Part.
- (2) A warrant of further detention —
- (a) shall authorise the further detention under section 30 of a specified person for a specified period, and
 - (b) shall state the time at which it is issued.
- (3) The specified period in relation to a person shall end not later than the end of the period of 7 days beginning —
- (a) with the time of his arrest under section 30, or
 - (b) if he was being detained under Schedule 7 when he was arrested under section 30, with the time when his examination under that Schedule began.

Time limit

26. (1) An application for a warrant shall be made —
- (a) during the period mentioned in section 30(3), or
 - (b) within 6 hours of the end of that period.
- (2) The High Bailiff when hearing an application made by virtue of subparagraph (1)(b) shall dismiss the application if he considers that it would have been reasonably practicable to make it during the period mentioned in section 30(3).
- (3) For the purposes of this Schedule, an application for a warrant is made when written or oral notice of an intention to make the application is given to the High Bailiff.

Notice

27. An application for a warrant may not be heard unless the person to whom it relates has been given a notice stating —
- (a) that the application has been made,
 - (b) the time at which the application was made,
 - (c) the time at which it is to be heard, and
 - (d) the grounds upon which further detention is sought.

Grounds for extension

28. (1) The High Bailiff may issue a warrant of further detention only if satisfied that —

- (a) there are reasonable grounds for believing that the further detention of the person to whom the application relates is necessary as mentioned in sub-paragraph (1A), and³³⁵
- (b) the investigation in connection with which the person is detained is being conducted diligently and expeditiously.

(1A) The further detention of a person is necessary as mentioned in this sub-paragraph if it is necessary —

- (a) to obtain relevant evidence whether by questioning the person or otherwise;
- (b) to preserve relevant evidence; or
- (c) pending the result of an examination or analysis of any relevant evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining relevant evidence.³³⁶

(2) In this paragraph “relevant evidence” means, in relation to the person to whom the application relates, evidence which —

- (a) relates to his commission of an offence under any of the provisions mentioned in section 29(1)(a), or
- (b) indicates that he is a person falling within section 29(1)(b).³³⁷

Representation

29. (1) The person to whom an application relates shall —

- (a) be given an opportunity to make oral or written representations to the High Bailiff about the application, and
- (b) subject to sub-paragraph (3), be entitled to be legally represented at the hearing.

(2) The High Bailiff shall adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where —

- (a) he is not legally represented,
- (b) he is entitled to be legally represented, and
- (c) he wishes to be so represented.

(3) The High Bailiff may exclude any of the following persons from any part of the hearing —

- (a) the person to whom the application relates;
- (b) anyone representing him.

Information

30. (1) The officer who has made an application for a warrant may apply to the High Bailiff for an order that specified information upon which he intends to rely be withheld from —

- (a) the person to whom the application relates, and
- (b) anyone representing him.

(2) Subject to sub-paragraph (3), the High Bailiff may make an order under sub-paragraph (1) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information were disclosed —

- (a) evidence of an offence under any of the provisions mentioned in section 29(1)(a) would be interfered with or harmed,
- (b) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
- (c) the recovery of property in respect of which a forfeiture order could be made under section 16, 16A or 16B would be hindered,³³⁸
- (d) the apprehension, prosecution or conviction of a person who is suspected of falling within section 29(1)(a) or (b) would be made more difficult as a result of his being alerted,
- (e) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,
- (f) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with, or
- (g) a person would be interfered with or physically injured.

(3) The High Bailiff may also make an order under subparagraph (1) in relation to specified information if satisfied that there are reasonable grounds for believing that —

- (a) the detained person has benefited from that person's criminal conduct; and
- (b) the recovery of the value of the property constituting the benefit would be hindered if the information were disclosed.³³⁹

(3A) For the purposes of sub-paragraph (3) the question whether a person has benefited from that person's criminal conduct is to be decided in accordance with Part 2 of the *Proceeds of Crime Act 2008*.³⁴⁰

(4) The High Bailiff shall direct that the following be excluded from the hearing of the application under this paragraph —

- (a) the person to whom the application for a warrant relates, and
- (b) anyone representing him.

Adjournments

31. (1) The High Bailiff may adjourn the hearing of an application for a warrant only if the hearing is adjourned to a date before the expiry of the period mentioned in section 30(3).

(2) This paragraph shall not apply to an adjournment under paragraph 29(2).

Extensions of warrants

32. (1) A police officer of at least the rank of superintendent may apply to the High Bailiff for the extension or further extension of the period specified in a warrant of further detention.

(2) Where the period specified is extended, the warrant shall be endorsed with a note stating the new specified period.

(3) The specified period shall end not later than the end of the period of 7 days beginning —

- (a) with the time of the person's arrest under section 30, or
- (b) if he was being detained under Schedule 7 when he was arrested under section 30, with the time when his examination under that Schedule began.

(4) Paragraphs 26(3) and 27 to 30 shall apply to an application under this paragraph as they apply to an application for a warrant of further detention.

(5) The High Bailiff may adjourn the hearing of an application under sub-paragraph (1) only if the hearing is adjourned to a date before the expiry of the period specified in the warrant.

(6) Sub-paragraph (5) shall not apply to an adjournment under paragraph 29(2).

Detention - conditions

33. A person detained by virtue of a warrant issued under this Part shall (unless detained in accordance with section 30(5) or (6) or under any other power) be released immediately if the officer having custody of him becomes aware that any of the grounds under paragraph 29(1)(a) and upon which the High Bailiff authorised his further detention have ceased to apply.

SCHEDULE 8A³⁴¹**SEIZURE AND FORFEITURE OF TERRORIST PUBLICATIONS**

[P2006/11/Sch 2]

Section 31A

Application of Schedule

1. This Schedule applies where an article —
 - (a) has been seized under the authority of a warrant under section 31A; and
 - (b) is being retained in the custody of a constable (“**the relevant constable**”).

Notice of seizure

2. (1) The relevant constable must give notice of the article’s seizure to —
 - (a) every person whom the relevant constable believes to have been the owner of the article, or one of its owners, at the time of the seizure; and
 - (b) if there is no such person or it is not reasonably practicable to give him or her notice, every person whom the relevant constable believes to have been an occupier at that time of the premises where the article was seized.
- (2) The notice must set out what has been seized and the grounds for the seizure.
- (3) The notice may be given to a person only by —
 - (a) delivering it to the person personally;
 - (b) addressing it to the person and leaving it for him or her at the appropriate address; or
 - (c) addressing it to the person and sending it to him or her at that address by post.
- (4) But where it is not practicable to give a notice in accordance with subparagraph (3), a notice given by virtue of sub-paragraph (1)(b) to the occupier of the premises where the article was seized may be given by —
 - (a) addressing it to “the occupier” of those premises, without naming him or her; and
 - (b) leaving it for him or her at those premises or sending it to him or her at those premises by post.
- (5) An article may be treated or condemned as forfeited under this Schedule only if —
 - (a) the requirements of this paragraph have been complied with in the case of that article; or
 - (b) it was not reasonably practicable for them to be complied with.
- (6) In this paragraph “the appropriate address”, in relation to a person, means —

- (a) in the case of a body corporate, its registered or principal office in the Island;
 - (b) in the case of a firm, the principal office of the partnership;
 - (c) in the case of an unincorporated body or association, the principal office of the body or association; and
 - (d) in any other case, his or her usual or last known place of residence in the Island or his or her last known place of business in the Island.
- (7) In the case of —
- (a) a company registered outside the Island;
 - (b) a firm carrying on business outside the Island; or
 - (c) an unincorporated body or association with offices outside the Island,

the references in this paragraph to its principal office include references to its principal office within the Island (if any).

Notice of claim

3. (1) A person claiming that the seized article is not liable to forfeiture may give notice of his or her claim to a constable at any police station.

(2) Oral notice is not sufficient for these purposes.

4. (1) A notice of claim may not be given more than one month after —

- (a) the day of the giving of the notice of seizure; or
- (b) if no such notice has been given, the day of the seizure.

(2) A notice of claim must specify —

- (a) the name and address of the claimant; and
- (b) in the case of a claimant who is outside the Island, the name and address of an advocate in the Island who is authorised to accept service, and to act, on behalf of the claimant.

(3) Service upon an advocate so specified is to be taken to be service on the claimant for the purposes of any proceedings by virtue of this Schedule.

(4) In a case in which notice of the seizure was given to different persons on different days, the reference in this paragraph to the day on which that notice was given is a reference —

- (a) in relation to a person to whom notice of the seizure was given, to the day on which that notice was given to the person; and
- (b) in relation to any other person, to the day on which notice of the seizure was given to the last person to be given such a notice.

Automatic forfeiture in a case where no claim is made

5. The article is to be treated as forfeited if, by the end of the period for the giving of a notice of claim in respect of it —

- (a) no such notice has been given; or
- (b) the requirements of paragraphs 3 and 4 have not been complied with in relation to the only notice or notices of claim that have been given.

Forfeiture by the court in other cases

6. (1) Where a notice of claim in respect of an article is duly given in accordance with paragraphs 3 and 4, the relevant constable must decide whether to take proceedings to ask the court to condemn the article as forfeited.

(2) The decision whether to take such proceedings must be made as soon as reasonably practicable after the giving of the notice of claim.

(3) If the relevant constable takes such proceedings and the court —

- (a) finds that the article was liable to forfeiture at the time of its seizure; and
- (b) is satisfied that its forfeiture is appropriate,

the court must condemn the article as forfeited.

(4) If that constable takes such proceedings and the court —

- (a) finds that the article was not liable to forfeiture at the time of its seizure; or
- (b) is not satisfied that its forfeiture is appropriate,

the court must order the return of the article to the person who appears to the court to be entitled to it.

(5) If the relevant constable decides not to take proceedings for condemnation in a case in which a notice of claim has been given, he or she must return the article to the person who appears to him or her to be the owner of the article, or to one of the persons who appear to him or her to be owners of it.

(6) An article required to be returned in accordance with sub-paragraph (5) must be returned as soon as reasonably practicable after the decision not to take proceedings for condemnation.

Forfeiture proceedings

7. Proceedings by virtue of this Schedule are civil proceedings and may be instituted in the High Court or a court of summary jurisdiction.

8. (1) The claimant or the claimant's advocate must make his or her oath that, at the time of the seizure, the seized article was, or was to the best of his or her knowledge and belief, the property of the claimant.

- (2) In any such proceedings instituted in the High Court —
- (a) the court may require the claimant to give such security for the costs of the proceedings as may be determined by the court; and
 - (b) the claimant must comply with any such requirement.

(3) If a requirement of this paragraph is not complied with, the court must find against the claimant.

9. (1) In the case of proceedings by virtue of this Schedule that are instituted in a court of summary jurisdiction, either party may appeal against the decision of that court to the High Court.

(2) This paragraph does not affect any right to require the statement of a case for the opinion of the Staff of Government Division.

10. Where an appeal has been made (whether by case stated or otherwise) against the decision of the court in proceedings by virtue of this Schedule in relation to an article, the article is to be left in the custody of a constable pending the final determination of the matter.

Effect of forfeiture

11. Where an article is treated or condemned as forfeited under this Schedule, the forfeiture is to be treated as having taken effect as from the time of the seizure.

Disposal of unclaimed property

12. (1) This paragraph applies where the article seized under the authority of a warrant under section 31A is required to be returned to a person.

- (2) If —
- (a) the article is (without having been returned) still in the custody of a constable after the end of the period of 12 months beginning with the day after the requirement to return it arose; and
 - (b) it is not practicable to dispose of the article by returning it immediately to the person to whom it is required to be returned,

the constable may dispose of it in any manner he or she thinks fit.

Provisions as to proof

13. In proceedings arising out of the seizure of an article, the fact, form and manner of the seizure is to be taken, without further evidence and unless the contrary is shown, to have been as set forth in the process.

14. In proceedings, the condemnation by a court of an article as forfeited under this Schedule may be proved by the production of either —

- (a) the order of condemnation; or

- (b) a certified copy of the order purporting to be signed by an officer of the court by which the order was made.

Special provisions as to certain claimants

15. (1) This paragraph applies where, at the time of the seizure of the article, it was —

- (a) the property of a body corporate;
- (b) the property of 2 or more partners; or
- (c) the property of more than 5 persons.

(2) The oath required by paragraph 8, and any other thing required by this Schedule or by rules of court to be done by an owner of the article, may be sworn or done by —

- (a) a person falling within sub-paragraph (3); or
- (b) a person authorised to act on behalf of a person so falling.

(3) The persons falling within this sub-paragraph are —

- (a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;
- (b) where the owners are in partnership, any one or more of the owners;
- (c) where there are more than 5 owners and they are not in partnership, any 2 or more of the owners acting on behalf of themselves and any of their co-owners who are not acting on their own behalf.

Saving for owner's rights

16. Neither the imposition of a requirement by virtue of this Schedule to return an article to a person nor the return of an article to a person in accordance with such a requirement affects —

- (a) the rights in relation to that article of any other person; or
- (b) the right of any other person to enforce his or her rights against the person to whom it is returned.

SCHEDULE 8B³⁴²

[Section 33(7)]

**SEARCHES IN SPECIFIED AREAS OR PLACES:
SUPPLEMENTARY**

1 Extent of search powers: supplementary

(1) A constable exercising the power conferred by an authorisation under section 33 may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

(2) If a constable proposes to search a person or vehicle by virtue of section 33(2) or (3) he or she may detain the person or vehicle for such time as is reasonably required to permit the search to be carried out at or near the place where the person or vehicle is stopped.

2 Requirements as to writing

(1) Authorisation under section 33 given orally must be confirmed by the Chief Constable in writing as soon as reasonably practicable.

(2) The written statement must be provided if —

- (a) a vehicle or pedestrian is stopped by virtue of section 33(2) or (3); and
- (b) the driver of the vehicle or the pedestrian (as the case may be) applies for a written statement that the vehicle or the pedestrian was stopped by virtue of either of those provisions.

(3) An application under sub-paragraph (2) must be made within the period of 12 months beginning with the date on which the vehicle or pedestrian was stopped.

3 Duration of authorisations

(1) An authorisation under section 33 has effect during the period —

- (a) beginning at the time when the authorisation is given; and
- (b) ending with the specified date or at the specified time.

(2) However —

- (a) the specified date or time must not occur after the end of the period of 14 days beginning with the day on which the authorisation is given;
- (b) the Chief Constable must inform the Department of the authorisation as soon as reasonably practicable;
- (c) an authorisation ceases to have effect at the end of the period of 48 hours beginning with the time when it is given unless it is confirmed by Department before the end of that period, but the ceasing does not affect the lawfulness of anything done in reliance on it before the end of the period concerned.

(3) When confirming an authorisation, the Department may —

- (a) substitute an earlier date or time for the specified date or time;
- (b) substitute a more restricted area or place for the specified area or place.

(4) The Department may cancel an authorisation with effect from a time identified by it.

(5) The Chief Constable may —

- (a) cancel an authorisation with effect from a time identified by the officer concerned;
- (b) substitute an earlier date or time for the specified date or time;
- (c) substitute a more restricted area or place for the specified area or place.

(6) However, any such cancellation or substitution in relation to an authorisation confirmed by the Department under sub-paragraph (2)(c) does not require confirmation by the Department.

(7) The existence, expiry or cancellation of an authorisation does not prevent the giving of a new authorisation.

4 Specified areas or places

If an authorisation specifies more than one area or place —

- (a) the Chief Constable's power under paragraph 3(1)(b) to specify a date or time includes a power to specify different dates or times for different areas or places (and the other references in this Schedule to the specified date or time are to be read accordingly); and
- (b) the power of the Department under paragraph 3(3)(b), and the Chief Constable under paragraph 3(5)(c), includes a power to remove areas or places from the authorisation.

5 Interpretation

In this Schedule —

“**driver**” has the meaning given by section 32AA(4);

“**specified**” means specified in an authorisation.

SCHEDULE 9³⁴³**SCHEDULE 10****EXTENSION OF EXISTING DISCLOSURE POWERS**Section 56³⁴⁴

Enactments to which Section 56 applies

Agricultural Marketing Act 1934

Section 18(1)

Section 28(3)

Agricultural Wages Act 1952

Section 14A(4)

Agricultural Returns Act 1955

Section 2

Consumer Protection (Trade Descriptions) Act 1970

Section 28(5A)

Sea-Fisheries Act 1971[Repealed]³⁴⁵*Fire Precautions Act 1975*

Section 16(1) and (2)

Employment Agencies Act 1975

Section 8(4)

Misuse of Drugs Act 1976

Section 30A(4)

Energy Act 1980

Paragraph 7(1) of Schedule 2

Non-Resident Traders Act 1983

Paragraph 2(2) of Schedule 1A

Telecommunications Act 1984[Repealed]³⁴⁶*Legal Aid Act 1986*

Section 14(1)

Radio Masts Regulation Act 1988

Section 8(2)

Moneylenders Act 1991

Section 16(2)

Consumer Protection Act 1991

Section 34(2)

Section 47F(1)

Police Act 1993

Paragraph 12(1) of Schedule 1

Water Pollution Act 1993

Section 28(2)

Gas Regulation Act 1995

Section 13(2)

Timeshare Act 1996

Paragraph 4(1) of Schedule 1

Fair Trading Act 1996

Section 25(3)

Criminal Justice Act 1996

Section 2(4)

Estate Agents Act 1999

Paragraph 6 of the Schedule

Retirement Benefits Schemes Act 2000

Section 44(1)

Residence Act 2001

Section 15(2)

Minimum Wage Act 2001

Section 12(3)

Terrorism and Other Crime (Financial Restrictions) Act 2014

The whole Act³⁴⁷

Communications Act 2021

Section 133(2)

Section 148(1)(b)³⁴⁸

SCHEDULE 11

AMENDMENT OF POLICE POWERS

Section 64

[Sch 11 amends the following Act —

Police Powers and Procedures Act 1998 q.v.]

SCHEDULE 12

EXERCISE OF OFFICERS' POWERS

Section 65

General

1. In this Schedule “**an officer**” means —
 - (a) an authorised officer within the meaning given by paragraph 19(1) of Schedule 3, and
 - (b) an examining officer within the meaning given by paragraph 1(1) of Schedule 7.
2. An officer may enter a vehicle for the purpose of exercising any of the functions conferred on him by virtue of this Act.
3. An officer may if necessary use reasonable force for the purpose of exercising a power conferred on him by virtue of this Act (apart from paragraphs 2 and 3 of Schedule 7).

Information

4. (1) Information acquired by an officer may be supplied —
 - (a) to the Governor for use in relation to immigration;
 - (b) to the Treasury for the purposes of any assigned matter within the meaning of the *Customs and Excise Management Act 1986* or a customs officer;
 - (c) to a constable;
 - (d) to the Attorney General;
 - (e) to a person specified by order made by the Department for use of a kind specified in the order.
- (2) Information acquired by a customs officer or an immigration officer may be supplied to an examining officer within the meaning of Schedule 7.

Code of practice

5. An officer shall perform functions conferred on him by virtue of this Act in accordance with any relevant code of practice in operation under paragraph 6.
6. (1) The Department may issue codes of practice about the exercise by officers of functions conferred on them by virtue of this Act.
 - (2) The failure by an officer to observe a provision of a code shall not of itself make him liable to criminal or civil proceedings.

- (3) The Department may bring a code into operation by order.

SCHEDULE 13

SECURITY OF PATHOGENS AND TOXINS

Section 74

PART 1 - PATHOGENS, TOXINS AND DANGEROUS SUBSTANCES

[P2001/24/Sch 5]

Pathogens and toxins in relation to which Schedule applies.

1. (1) The requirements of this Schedule apply to the pathogens and toxins specified in the following list —

VIRUSES

Chikungunya virus
Congo-crimean haemorrhagic fever virus
Dengue fever virus
Eastern equine encephalitis virus
Ebola virus
Hantaan virus
Japanese encephalitis virus
Junin virus
Lassa fever virus
Lymphocytic choriomeningitis virus
Machupo virus
Marburg virus
Monkey pox virus
Rift Valley fever virus
Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus)
Variola virus
Venezuelan equine encephalitis virus
Western equine encephalitis virus
Yellow fever virus

RICKETTSIAE

Bartonella quintana (Rochalimea quintana, Rickettsia quintana)
Coxiella burnetii
Rickettsia prowazeki

Rickettsia rickettsii

BACTERIA

Bacillus anthracis

Brucella abortus

Brucella melitensis

Brucella suis

Burkholderia mallei (*Pseudomonas mallei*)

Burkholderia pseudomallei (*Pseudomonas pseudomallei*)

Chlamydomphila psittaci

Clostridium botulinum

Francisella tularensis

Salmonella typhi

Shigella dysenteriae

Vibrio cholerae

Yersinia pestis

TOXINS

Aflatoxins

Botulinum toxins

Clostridium perfringens toxins

Conotoxin

Microcystin (Cyanginosin)

Ricin

Saxitoxin

Shiga toxin

Staphylococcus aureus toxins

Tetrodotoxin

Verotoxin

- (2) Any reference in this Schedule to a micro-organism includes —
- (a) any genetic material containing any nucleic acid sequence associated with the pathogenicity of the micro-organism; and
 - (b) any genetically modified organism containing any such sequence.
- (3) Any reference in this Schedule to a toxin includes —
- (a) any genetic material containing any nucleic acid sequence for the coding of the toxin; and
 - (b) any genetically modified organism containing any such sequence.
- (4) Any reference in this Schedule to a toxin includes sub-units of the toxin.

Power to modify paragraph 1

[P/2001/24/58(2) and (3)]

2. (1) The Department may by order modify any provision of paragraph 1.
- (2) The Department may not add any pathogen or toxin to that paragraph unless it is satisfied that the pathogen or toxin could be used in an act of terrorism to endanger life or cause serious harm to human health.

Dangerous substances

[P/2001/24/58(4) and (5)]

3. (1) In this Schedule “**dangerous substance**” means —
 - (a) anything which consists of or includes a substance for the time being mentioned in paragraph 1; or
 - (b) anything which is infected with or otherwise carries any such substance.
- (2) But something otherwise falling within sub-paragraph (1) is not to be regarded as a dangerous substance if —
 - (a) it satisfies prescribed conditions; or
 - (b) it is kept or used in prescribed circumstances.

PART 2 – DUTY TO NOTIFY

[P/2001/24/59]

Duty to notify Department before keeping or using dangerous substances

4. (1) The occupier of any premises must give a notice to the Department before any dangerous substance is kept or used there.
- (2) Sub-paragraph (1) does not apply to premises in respect of which a notice has previously been given under that sub-paragraph (unless it has been withdrawn).
- (3) The occupier of any premises in respect of which a notice has been given may withdraw the notice if no dangerous substance is kept or used there.
- (4) A notice under this paragraph must —
 - (a) identify the premises in which the substance is kept or used;
 - (b) identify any building or site of which the premises form part; and
 - (c) contain such other particulars (if any) as may be prescribed.
- (5) The occupier of any premises in which any dangerous substance is kept or used on the day on which this paragraph comes into operation must give a notice under this paragraph before the end of the period of one month beginning with that day.
- (6) Where —

- (a) a substance which is kept or used in any premises becomes a dangerous substance by virtue of a modification of paragraph 1, but
- (b) no other dangerous substance is kept or used there,

the occupier of the premises must give a notice under this paragraph before the end of the period of one month beginning with the day on which that modification comes into force.

PART 3 – INFORMATION ABOUT DANGEROUS SUBSTANCES

[P2001/24/60]

Information about security of dangerous substances

5. (1) A constable may give to the occupier of any relevant premises a notice requiring him to give the Chief Constable such information as is specified or described in the notice by a time so specified and in a form and manner so specified.

(2) The required information must relate to —

- (a) any dangerous substance kept or used in the premises; or
- (b) the measures taken (whether by the occupier or any other person) to ensure the security of any such substance.

(3) In this Schedule references to measures taken to ensure the security of any dangerous substance kept or used in any relevant premises include —

- (a) measures taken to ensure the security of any building or site of which the premises form part; and
- (b) measures taken for the purpose of ensuring access to the substance is given only to those whose activities require access and only in circumstances that ensure the security of the substance.

(4) In this Schedule “**relevant premises**” means any premises —

- (a) in which any dangerous substance is kept or used, or
- (b) in respect of which a notice under paragraph 4 is in force.³⁴⁹

6. (1) A police officer of at least the rank of inspector may give to the occupier of any relevant premises a notice requiring him to give the Chief Constable a list of —

- (a) each person who has access to any dangerous substance kept or used there;
- (b) each person who, in such circumstances as are specified or described in the notice, has access to such part of the premises as is so specified or described;
- (c) each person who, in such circumstances as are specified or described in the notice, has access to the premises; or

- (d) each person who, in such circumstances as are specified or described in the notice, has access to any building or site of which the premises form part.
- (2) A list under sub-paragraph (1) must be given before the end of the period of one month beginning with the day on which the notice is given.
- (3) Where a list under sub-paragraph (1) is given, the occupier of the premises for the time being —
 - (a) must secure that only the persons mentioned in the list are given the access identified in the list relating to them; but
 - (b) may give a supplementary list to the Chief Constable of other persons to whom it is proposed to give access.
- (4) Where a supplementary list is given under sub-paragraph (3)(b), the occupier of the premises for the time being must secure that persons mentioned in that list do not have the proposed access relating to them until the end of the period of 30 days beginning with the day on which that list is given.
- (5) The Chief Constable may direct that a person may have such access before the end of that period.
- (6) The Department may by order modify the period mentioned in sub-paragraph (4).
- (7) Any list under this paragraph must —
 - (a) identify the access which the person has, or is proposed to have;
 - (b) state the full name of that person, his date of birth, his address and his nationality; and
 - (c) contain such other matters (if any) as may be prescribed.

PART 4 – SECURITY DIRECTIONS

[P/2001/24/62]

Directions requiring security measures

7. (1) A constable may give directions to the occupier of any relevant premises requiring him to take such measures to ensure the security of any dangerous substance kept or used there as are specified or described in the directions by a time so specified.
- (2) The directions may —
- (a) specify or describe the substances in relation to the security of which the measures relate; and
 - (b) require the occupier to give a notice to the Chief Constable before any other dangerous substance specified or described in the directions is kept or used in the premises.

Directions requiring disposal of dangerous substances
[P/2001/24/63]

8. (1) Where the Department has reasonable grounds for believing that adequate measures to ensure the security of any dangerous substance kept or used in any relevant premises are not being taken and are unlikely to be taken, it may give a direction to the occupier of the premises requiring him to dispose of the substance.

(2) The direction must —

- (a) specify the manner in which, and time by which, the dangerous substance must be disposed of; or
- (b) require the occupier to produce the dangerous substance to a person specified or described in the notice in a manner and by a time so specified for him to dispose of.

Directions requiring denial of access
[P/2001/24/64]

9. (1) The Department may give directions to the occupier of any relevant premises requiring him to secure that the person identified in the directions —

- (a) is not to have access to any dangerous substance kept or used there;
- (b) is not to have, in such circumstances (if any) as may be specified or described in the directions, access to such part of the premises as is so specified or described;
- (c) is not to have, in such circumstances (if any) as may be specified or described in the directions, access to the premises; or
- (d) is not to have, in such circumstances (if any) as may be specified or described in the directions, access to any building or site of which the premises form part.

(2) The directions must be given under the hand of the Minister.

(3) The Department may not give the directions unless the Minister believes that they are necessary in the interests of national security.

PART 5 – ENFORCEMENT

[P/2001/24/65]

Powers of entry

10. (1) A constable may, on giving notice under this paragraph, enter any relevant premises, or any building or site of which the premises form part, at a reasonable time for the purpose of assessing the measures taken to ensure the security of any dangerous substance kept or used in the premises.

(2) The notice must be given to the occupier of the premises, or (as the case may be) the occupier of the building or site of which the premises form part, at least 2 working days before the proposed entry.

- (3) The notice must set out the purpose mentioned in sub-paragraph (1).
- (4) A constable who has entered any premises, building or site by virtue of sub-paragraph (1) may for the purpose mentioned in that sub-paragraph —
 - (a) search the premises, building or site;
 - (b) require any person who appears to the constable to be in charge of the premises, building or site to facilitate any such inspection; and
 - (c) require any such person to answer any question.
- (5) The powers of a constable under this paragraph include power to take with him such other persons as appear to him to be necessary.

Search warrants

[P/2001/24/66]

11. (1) If, on an application made by a constable, a justice of the peace is satisfied that there are reasonable grounds for believing —
- (a) that a dangerous substance is kept or used in any premises but that no notice under paragraph 4 is in force in respect of the premises, or
 - (b) that the occupier of any relevant premises is failing to comply with any direction given to him under paragraph 7 or 8,

and that any of the conditions mentioned in sub-paragraph (3) apply, he may issue a warrant authorising a constable to enter the premises, if necessary by force, and to search them.

- (2) A constable may seize and retain anything which he believes is or contains a dangerous substance.
- (3) The conditions mentioned in sub-paragraph (1) are —
 - (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
 - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to any substance which may be a dangerous substance;
 - (c) that entry to the premises will not be granted unless a warrant is produced;
 - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

Offences

[P/2001/24/67]

12. (1) An occupier who fails without reasonable excuse to comply with any duty or direction imposed on him by or under this Schedule is guilty of an offence.

(2) A person who, in giving any information to a person exercising functions under this Schedule, knowingly or recklessly makes a statement which is false or misleading in a material particular is guilty of an offence.

(3) A person guilty of an offence under this paragraph is liable —

- (a) on conviction on information, to custody for a term not exceeding 5 years or a fine (or both); and
- (b) on summary conviction, to custody for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both).³⁵⁰

Bodies corporate

[P/2001/24/68]

13. (1) If an offence under this Schedule —

- (a) is committed by a body corporate, and
- (b) is proved to have been committed with the consent or connivance of an officer or relevant employee, or to be attributable to any neglect on his part,

he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In this paragraph —

“officer” includes —

- (a) a director, manager or secretary,
- (b) a person purporting to act as a director, manager or secretary,
- (c) if the affairs of the body are managed by its members, a member in connection with his functions of management, and
- (d) in relation to a limited liability company constituted under the *Limited Liability Companies Act 1996*, the company’s manager, the registered agent and its members;

“relevant employee” means any employee of the body corporate who is in charge of any relevant premises or the access to any dangerous substance kept or used there.

Partnerships and unincorporated associations

[P/2001/24/69]

14. (1) Proceedings for an offence alleged to have been committed by a partnership or an unincorporated association must be brought in the name of the partnership or association (and not in that of any of its members).

(2) A fine imposed on the partnership or association on its conviction of an offence is to be paid out of the funds of the partnership or association.

(3) Documents shall be served on the partnership or association as if it were a body corporate and section 10 of the *Criminal Jurisdiction Act 1993* and any other enactments relating to the service of documents shall have effect accordingly.

(4) In proceedings for an offence brought against the partnership or association —

- (a) section 10 of the *Criminal Jurisdiction Act 1993* (arraignment); and
- (b) section 32 of the *Summary Jurisdiction Act 1989* (procedure),

apply as they do in relation to a body corporate.

(5) If an offence under this Schedule committed by a partnership is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

- (a) a partner or a person purporting to act as a partner, or
- (b) any employee of the partnership who is in charge of any relevant premises or the access to any dangerous substance kept or used there,

he, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(6) If an offence under this Schedule committed by an unincorporated association is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

- (a) any officer, or
- (b) any employee of the association who is in charge of any relevant premises or the access to any dangerous substance kept or used there,

he, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) In sub-paragraph (6), “officer”, in relation to any association, means —

- (a) any officer of the association or any member of its governing body; or
- (b) any person purporting to act in such a capacity.

PART 6 – APPEALS

[P/2001/24/70 and 71]

Denial of access: appeals

15. (1) Any person who is —

- (a) aggrieved by directions given under paragraph 9; or
- (b) required to do any act in response to —

- (i) any notice under paragraph 5, or
- (ii) any directions under paragraph 7 or 8,

may appeal to the High Court.

(2) The High Court may allow an appeal under sub-paragraph (1) on a question of law.

(3) The High Court must allow an appeal under sub-paragraph (1)(a) if it considers that the decision to give the directions was flawed when considered in the light of the principles applicable on an application for judicial review.

(4) The High Court may allow an appeal under sub-paragraph (1)(b) if it considers, having regard to all the circumstances of the case, it is unreasonable to be required to do the act concerned.

(5) An appeal may not be brought after the end of the period of one month beginning with the day on which the notice or directions were given.

(6) If the High Court allows an appeal under sub-paragraph (1)(b), it may —

- (a) direct that the required act need not be done;
- (b) make such modification of the requirement as it considers appropriate;
- (c) make such other order as the court thinks fit.

(7) If the High Court allows an appeal under sub-paragraph (1)(a), it may —

- (a) confirm, vary or revoke the directions;
- (b) make such other order or declaration, or grant such relief as it could have done in respect of an application for judicial review;
- (c) make such other order as the court thinks fit.

Rules of court

16. Rules of court under section 25 of the *High Court Act 1991* may be made to —

- (a) regulate the exercise of the right of appeal under this paragraph;
- (b) prescribe practice and procedure to be followed in relation to appeal proceedings under this paragraph;
- (c) secure that information is not disclosed contrary to the public interest.

PART 7 – SUPPLEMENTARY

[P/2001/24/72]

Giving of directions or notices

17. Any direction or notice under this Schedule may be given by post.

Interpretation

[P/2001/24/74]

18. (1) In this Schedule —

“**dangerous substance**” has the meaning given in paragraph 3;

“**direction**” means a direction in writing;

“**notice**” means a notice in writing;

“**occupier**” includes a partnership or unincorporated association and, in relation to premises that are unoccupied, means any person entitled to occupy the premises;

“**prescribed**” means prescribed in regulations made by the Department;

“**relevant premises**” has the meaning given in paragraph 5.

(2) In this Schedule references to measures taken to ensure the security of any dangerous substance are to be construed in accordance with paragraph 5.

Power to extend Schedule to animal or plant pathogens, pests or toxic chemicals

[P/2001/24/75]

19. (1) The Department may, in relation to anything to which this paragraph applies, make an order applying, or making provision corresponding to, any provision of this Schedule, with or without modifications.

(2) This paragraph applies to —

- (a) toxic chemicals (within the meaning of the Chemical Weapons Act 1996 (an Act of Parliament));
- (b) animal pathogens;
- (c) plant pathogens; and
- (d) pests.

(3) The power under this paragraph may be exercised in relation to any chemical only if the Department is satisfied that the chemical could be used in an act of terrorism to endanger life or cause serious harm to human health.

(4) The power under this paragraph may be exercised in relation to any pathogen or pest only if the Department is satisfied that there is a risk that the pathogen or pest is of a description that could be used in an act of terrorism to cause —

- (a) widespread damage to property;
- (b) significant disruption to the public; or
- (c) significant alarm to the public.

(5) An order under this paragraph may —

- (a) provide for any reference in the order to an instrument or other document to take effect as a reference to that instrument or document as revised or re-issued from time to time; and

- (b) make such incidental and supplementary provision as the Department thinks fit.

SCHEDULE 13A³⁵¹

CONVENTION OFFENCES

[P2006/11/20(9) & Sch 1]

Section 75(1)

Explosive offences

1. An offence under any of the following provisions of the *Explosive Substances Act 1883* —

- (a) section 2 (causing an explosion likely to endanger life);
- (b) section 3 (preparation of explosions);
- (c) section 5 (ancillary offences).

Biological weapons

2. An offence under section 1 (biological agents and weapons) of the Biological Weapons Act 1974 (of Parliament).

Offences against internationally protected persons

3. (1) An offence mentioned in section 1(1)(a) of the Internationally Protected Persons Act 1978 (of Parliament) (attacks against protected persons committed outside the Island) which is committed (whether in the Island or elsewhere) in relation to a protected person.

(2) An offence mentioned in section 1(1)(b) of that Act (attacks on relevant premises etc) which is committed (whether in the Island or elsewhere) in connection with an attack —

- (a) on relevant premises or on a vehicle ordinarily used by a protected person; and
- (b) at a time when a protected person is in or on the premises or vehicle.

(3) An offence under section 1(3) of that Act (threats etc in relation to protected persons).

(4) Expressions used in this paragraph and section 1 of that Act have the same means in this paragraph as in that section.

Hostage-taking

4. An offence under section 1 of the Taking of Hostages Act 1982 (of Parliament) (hostage-taking).

Hijacking and other offences against aircraft

5. Offences under any of the following provisions of the Aviation Security Act 1982 (of Parliament) —

- (a) section 1 (hijacking);
- (b) section 2 (destroying, damaging or endangering safety of aircraft);
- (c) section 3 (other acts endangering or likely to endanger safety of aircraft);
- (d) section 6(2) (ancillary offences).

Offences involving nuclear material

6. (1) An offence mentioned in section 1(1)(a) to (d) of the Nuclear Material (Offences) Act 1983 (of Parliament) (offences in relation to nuclear material committed outside the Isle of Man) which is committed (whether in the Isle of Man or elsewhere) in relation to or by means of nuclear material.

(2) An offence mentioned in section 1(1)(a) or (b) of that Act where the act making the person guilty of the offence (whether done in the Island or elsewhere) —

- (a) is directed at a nuclear facility or interferes with the operation of such a facility; and
- (b) causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material.

(3) An offence under any of the following provisions of that Act —

- (a) section 1B (offences relating to damage to environment);
- (b) section 1C (offences of importing or exporting etc nuclear material: extended jurisdiction);
- (c) section 2 (offences involving preparatory acts and threats).

(4) Expressions used in this paragraph and that Act have the same meanings in this paragraph as in that Act.

7. (1) Any of the following offences under the *Customs and Excise Management Act 1986* —

- (a) an offence under section 47(2) or (3) (improper importation of goods) in connection with a prohibition or restriction relating to the importation of nuclear material;
- (b) an offence under section 69(2) (exportation of prohibited or restricted goods) in connection with a prohibition or restriction relating to the exportation or shipment as stores of nuclear material;
- (c) an offence under section 178(1) or (2) (fraudulent evasion of duty) in connection with a prohibition or restriction relating to the importation, exportation or shipment as stores of nuclear material.

(2) In this paragraph “nuclear material” has the same meaning as in the Nuclear Material (Offences) Act 1983 (of Parliament) (see section 6 of that Act).

Offences relating to aviation and maritime security

8. (1) An offence under section 1 of the Aviation and Maritime Security Act 1990 (of Parliament) (endangering safety at aerodromes).

(2) Offences under any of the following provisions of the *Maritime Security Act 1995* —

- (a) section 1 (hijacking of ships);
- (b) section 2 (seizing or exercising control of fixed platforms);
- (c) section 3 (destroying ships or fixed platforms or endangering their safety);
- (d) section 4 (other acts endangering or likely to endanger safe navigation);
- (e) section 5 (offences involving threats relating to ships or fixed platforms);
- (f) section 6 (ancillary offences).

Offences involving chemical weapons

9. An offence under section 2 of the Chemical Weapons Act 1996 (of Parliament) (use, development etc of chemical weapons).

Terrorist funds

10. An offence under any of the following provision of this Act —

- (a) section 7 (terrorist fund-raising);
- (b) section 8 (use or possession of terrorist funds);
- (c) section 9 (facilitating funding for terrorism);
- (d) section 10 (money laundering of terrorist funds).

Directing terrorist organisation

11. An offence under section 44 (directing a terrorist organisation) of this Act.

Offences involving nuclear weapons

12. An offence under section 49B (use etc of nuclear weapons) of this Act.

Conspiracy etc

13. Any of the following offences —

- (a) conspiracy to commit a Convention offence;

- (b) inciting the commission of a Convention offence;
- (c) attempting to commit a Convention offence;
- (d) aiding, abetting, counselling or procuring the commission of a Convention offence.

14. The Department may by order —

- (a) amend this Schedule so as to add an offence to the offences listed in this Schedule;
- (b) amend this Schedule so as to remove an offence from the offences so listed;
- (c) make supplemental, incidental, consequential or transitional provision in connection with the addition or removal of an offence.

Interpretation

15. In this Schedule, a reference to an Act of Parliament, or a provision of an Act of Parliament, is a reference to that Act, or a provision of that Act, as it has effect in the Island.

SCHEDULE 14**CONSEQUENTIAL AND MISCELLANEOUS AMENDMENTS**

Section 79

[Sch 14 amended by Proceeds of Crime Act 2008 Sch 9, and amends the following Acts —

Theft Act 1981 q.v.

Custody Act 1995 q.v.

Drug Trafficking Act 1996 q.v.

Police Powers and Procedures Act 1998 q.v.

Children and Young Persons Act 2001 q.v.]

SCHEDULE 15**REPEALS**

Section 79

[Sch 15 repeals the following Acts wholly —

Prevention of Terrorism Act 1990

Prevention of Terrorism (Amendment) Act 1992

and the following Acts in part —

Custody Act 1995

Criminal Justice Act 1996

Law Reform Act 1997

Criminal Justice (Money Laundering Offences) Act 1998

Police Powers and Procedures Act 1998

Children and Young Persons Act 2001.]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (1) substituted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

² Para (f) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 4(4) and repealed by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

³ Para (g) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 4(4) and repealed by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

⁴ Subs (3) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

⁵ Subs (5) amended by SD2017/0341.

⁶ Subs (6) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 4(5).

⁷ Subs (7) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 4(5).

⁸ Subs (8) inserted by SD2017/0341.

⁹ Subs (4) substituted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

¹⁰ Subs (5) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 5.

¹¹ Subs (6) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 5.

¹² Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.

¹³ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.

¹⁴ Subpara (2) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.

¹⁵ Para (a) amended by SD2017/0341.

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- ¹⁶ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹⁷ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹⁸ Subpara (iii) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹⁹ Para (b) amended by Fines and Penalties Act 2024 Sch 5.
- ²⁰ Subs (3) amended by SD2017/0341.
- ²¹ S 9 substituted by Anti-Terrorism and Crime (Amendment) Act 2011 s 6.
- ²² Para (b) amended by Fines and Penalties Act 2024 Sch 5.
- ²³ S 9A inserted by SD2017/0341.
- ²⁴ Para (aa) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 7(3).
- ²⁵ Para (ab) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 7(3).
- ²⁶ Subs (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 7(2) and by SD2017/0341.
- ²⁷ Subs (2) inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ²⁸ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ²⁹ Subs (4) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 7(5).
- ³⁰ S 10A inserted by SD2017/0341.
- ³¹ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 8.
- ³² Subs (2) amended by Financial Intelligence Unit Act 2016 Sch 3.
- ³³ Para (a) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ³⁴ Para (b) repealed by Financial Intelligence Unit Act 2016 Sch 3.
- ³⁵ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ³⁶ Subs (1) amended by Financial Intelligence Unit Act 2016 Sch 3.
- ³⁷ Subs (2) amended by Financial Intelligence Unit Act 2016 Sch 3.
- ³⁸ Subs (4) amended by Financial Intelligence Unit Act 2016 Sch 3.
- ³⁹ Subs (5) repealed by Financial Intelligence Unit Act 2016 Sch 3.
- ⁴⁰ Subs (1) amended by Financial Intelligence Unit Act 2016 Sch 3.
- ⁴¹ Subs (2) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 9(2) and by Financial Intelligence Unit Act 2016 Sch 3.
- ⁴² Para (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 9(3).
- ⁴³ Para (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 9(4) and by Financial Intelligence Unit Act 2016 Sch 3.
- ⁴⁴ Para (b) amended by Financial Intelligence Unit Act 2016 Sch 3.
- ⁴⁵ Subs (6) amended by Financial Intelligence Unit Act 2016 Sch 3.
- ⁴⁶ Subs (7) repealed by Anti-Terrorism and Crime (Amendment) Act 2011 s 9(5).
- ⁴⁷ S 13A inserted by SD2019/0398.
- ⁴⁸ S 13B inserted by SD2019/0398.
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⁴⁹ S 13C inserted by SD2019/0398.

⁵⁰ Subs (4) amended by Financial Intelligence Unit Act 2016 Sch 3.

⁵¹ Subs (10) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

⁵² Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.

⁵³ Subs (14) repealed by Financial Intelligence Unit Act 2016 Sch 3.

⁵⁴ Subs (4) amended by Financial Intelligence Unit Act 2016 Sch 3.

⁵⁵ Subs (7) repealed by Financial Intelligence Unit Act 2016 Sch 3.

⁵⁶ S 15ZA inserted by SD2019/0398.

⁵⁷ S 15ZB inserted by SD2019/0398.

⁵⁸ S 15ZC inserted by SD2019/0398.

⁵⁹ S 15ZD inserted by SD2019/0398.

⁶⁰ S 15ZE inserted by SD2019/0398.

⁶¹ S 15A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 10.

⁶² S 16 substituted by Anti-Terrorism and Crime (Amendment) Act 2011 s 11.

⁶³ S 16A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 11.

⁶⁴ S 16B inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 11.

⁶⁵ S 16C inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 11.

⁶⁶ S 18A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁶⁷ S 18B inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁶⁸ S 18C inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁶⁹ S 18D inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷⁰ S 18E inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷¹ S 18F inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷² S 18G inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷³ S 18H inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷⁴ S 18I inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷⁵ S 18J inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷⁶ S 18K inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷⁷ S 18L inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷⁸ S 18M inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁷⁹ Para (a) amended by Fines and Penalties Act 2024 Sch 5.

⁸⁰ S 18N inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁸¹ S 18O inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁸² S 18P inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁸³ S 18Q inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁸⁴ S 18R inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁸⁵ S 18S inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁸⁶ S 18T inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁸⁷ S 18U inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁸⁸ S 18V inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

⁸⁹ S 18W inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 12.

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- ⁹⁰ Para (c) amended by SD2017/0341.
- ⁹¹ Subs (4) amended by Fines and Penalties Act 2024 Sch 4.
- ⁹² S 24 amended by Terrorism and Other Crimes (Financial Restrictions) Act 2014 Sch 3.
- ⁹³ S 26 heading amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ⁹⁴ Subs (1) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ⁹⁵ Subs (2) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ⁹⁶ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ⁹⁷ Subs (6) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ⁹⁸ S 27 heading amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ⁹⁹ Subs (3) repealed by SD2019/0398.
- ¹⁰⁰ Subs (4) repealed by SD2019/0398.
- ¹⁰¹ Para (c) inserted by SD2019/0398.
- ¹⁰² Subs (5) amended by SD2019/0398.
- ¹⁰³ Subs (6) amended by SD2019/0398.
- ¹⁰⁴ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹⁰⁵ Para (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 13.
- ¹⁰⁶ S 31A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 14.
- ¹⁰⁷ Subs (5) inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹⁰⁸ Subs (6) inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹⁰⁹ Subs (7) inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹¹⁰ S 32AA inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹¹¹ Cross-heading inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15.
- ¹¹² S 32A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15.
- ¹¹³ S 32B inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15 and amended by Fines and Penalties Act 2024 Sch 5.
- ¹¹⁴ S 32C inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15.
- ¹¹⁵ S 32D inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15.
- ¹¹⁶ S 32E inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15.
- ¹¹⁷ S 32F inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15.
- ¹¹⁸ S 32G inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15.
- ¹¹⁹ S 32H inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15.
- ¹²⁰ S 32I inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 15.

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- ¹²¹ Cross heading substituted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹²² S 33 substituted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹²³ Cross heading inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹²⁴ S 34 substituted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹²⁵ S 35 substituted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹²⁶ S 36 substituted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹²⁷ S 36A inserted by by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ¹²⁸ Subs (5) amended by Fines and Penalties Act 2024 Sch 4.
- ¹²⁹ Subs (6) amended by Fines and Penalties Act 2024 Sch 4.
- ¹³⁰ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹³¹ Subss (8) to (10) repealed by Anti-Terrorism and Crime (Amendment) Act 2011 s 17.
- ¹³² Para (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 18.
Ed. note: The amendment in s 18 of the Anti-Terrorism and Crime (Amendment) Act 2011 (for 10 years substitute 15 years) does not apply to offences committed before the commencement of that section see s 53(1) (operative 13/7/2011 see SD515/11).
- ¹³³ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹³⁴ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹³⁵ Subss (5) to (7) repealed by Anti-Terrorism and Crime (Amendment) Act 2011 s 19.
- ¹³⁶ Para (b) amended by Fines and Penalties Act 2024 Sch 5.
- ¹³⁷ S 46A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 20.
- ¹³⁸ S 46B inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 20.
- ¹³⁹ Para (b) amended by Fines and Penalties Act 2024 Sch 5.
- ¹⁴⁰ S 46C inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 20.
- ¹⁴¹ Para (b) amended by Fines and Penalties Act 2024 Sch 5.
- ¹⁴² S 46D inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 20.
- ¹⁴³ Cross-heading inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 21.
- ¹⁴⁴ Para (b) amended by Fines and Penalties Act 2024 Sch 5.
- ¹⁴⁵ S 47A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 21.
- ¹⁴⁶ Para (b) amended by Fines and Penalties Act 2024 Sch 5.
- ¹⁴⁷ S 47B inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 21.
- ¹⁴⁸ S 47C inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 21.
- ¹⁴⁹ S 47D inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 21.
- ¹⁵⁰ S 49 heading amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 22(4).

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- ¹⁵¹ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 22(2).
- ¹⁵² Subs (3) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 22(3).
- ¹⁵³ S 49 amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 22(4). Subs (4) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 22(3).
- ¹⁵⁴ S 49A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 23.
- ¹⁵⁵ Part VIA inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 24.
- ¹⁵⁶ S 49B inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 24.
- ¹⁵⁷ S 49C inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 24.
- ¹⁵⁸ S 49D inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 24.
- ¹⁵⁹ S 49E inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 24.
- ¹⁶⁰ Para (b) amended by Fines and Penalties Act 2024 Sch 5.
- ¹⁶¹ S 49F inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 24.
- ¹⁶² S 49G inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 24.
- ¹⁶³ Para (b) amended by Fines and Penalties Act 2024 Sch 5.
- ¹⁶⁴ S 49H inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 24.
- ¹⁶⁵ Part VII repealed by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 4.
- ¹⁶⁶ Ss 50 to 55 repealed by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 4.
- ¹⁶⁷ Para (b) amended by SD0606/12.
- ¹⁶⁸ Para (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹⁶⁹ Para (e) repealed by Anti-Terrorism and Crime (Amendment) Act 2011 s 28(2).
- ¹⁷⁰ Editorial Note - References to a provision of the Data Protection Act 2002, except Part 3, must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/08/2018. References to a provision in Part 3 of the Data Protection Act 2002 must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/03/2019.
- ¹⁷¹ Subs (8) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 28(3).
- ¹⁷² Subs (10) repealed by Anti-Terrorism and Crime (Amendment) Act 2011 s 28(4).
- ¹⁷³ Editorial Note - References to a provision of the Data Protection Act 2002, except Part 3, must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/08/2018. References to a provision in Part 3 of the Data Protection Act 2002 must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/03/2019.
- ¹⁷⁴ S 58A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 29.
- ¹⁷⁵ Para (aa) inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

- ¹⁷⁶ Para (c) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 30(2).
- ¹⁷⁷ Para (e) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 30(3).
- ¹⁷⁸ Para (f) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 30(3).
- ¹⁷⁹ Para (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹⁸⁰ Para (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹⁸¹ Part IXA inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 31.
- ¹⁸² S 62A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 31.
- ¹⁸³ S 62B inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 31.
- ¹⁸⁴ S 62C inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 31.
- ¹⁸⁵ Subs (4) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ¹⁸⁶ Subs (1A) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 32(2).
- ¹⁸⁷ Subs (2) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 32(3).
- ¹⁸⁸ Para (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 32(4).
- ¹⁸⁹ Subs (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 33.
- ¹⁹⁰ Subs (3) amended by Interpretation Act 2015 s 105.
- ¹⁹¹ S 72A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 34.
- ¹⁹² S 72B inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 34.
- ¹⁹³ S 72C inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 34.
- ¹⁹⁴ Part XI heading repealed by Bribery Act 2013 Sch 2.
- ¹⁹⁵ S 73 repealed by Corruption Act 2008 Sch 2.
- ¹⁹⁶ Definition of “atomic energy” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(b).
- ¹⁹⁷ Definition of “Convention offence” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(b).
- ¹⁹⁸ Definition of “FIU” inserted by Financial Intelligence Unit Act 2016 Sch 3.
- ¹⁹⁹ Definition of “GCHQ” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(c).
- ²⁰⁰ Definition of “intelligence services” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(d).
- ²⁰¹ Definition of “international organisation” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(d).
- ²⁰² Definition of “nuclear facility” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(d).
- ²⁰³ Definition of “nuclear material” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(d).
- ²⁰⁴ Definition of “nuclear reactor” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(d).
- ²⁰⁵ Definition of “property” substituted by Terrorism and Crime (Miscellaneous Amendments) Act 2016 s 6.

- ²⁰⁶ Definition of “public” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(e).
- ²⁰⁷ Definition of “radioactive device” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(f).
- ²⁰⁸ Definition of “radioactive material” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(f).
- ²⁰⁹ Definition of “record” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(f).
- ²¹⁰ Definition of “search powers code” inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ²¹¹ Definition of “transportation device” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(g).
- ²¹² Definition of “uranium enriched in the isotope 235 or 233” inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(g).
- ²¹³ S 75 amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(1)(a). Subs (2) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 35(2).
- ²¹⁴ Table amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3, by Financial Intelligence Unit Act 2016 Sch 3 and by SD2017/0341.
- ²¹⁵ S 76 amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 36.
- ²¹⁶ S 76A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 37.
- ²¹⁷ S 76B inserted by Terrorism and Crime (Miscellaneous Amendments) Act 2016 s 7.
- ²¹⁸ Subs (2) amended by SD 861/11 and by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 4..
- ²¹⁹ Subs (2A) inserted by Terrorism and Crime (Miscellaneous Amendments) Act 2016 s 8.
- ²²⁰ Subs (3) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 38.
- ²²¹ S 82 heading substituted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ²²² S 82 substituted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ²²³ ADO (ss 75 to 77, 80, 82) 1/12/2004; (remaining provisions, but only to the extent that they enable the making of public documents) 1/12/2004 (SD772/04); (the provisions not yet in full operation) 1/1/2005 (SD773/04). [Editorial Note: Appointed Day Orders made under the now-repealed subsections 82(2) and (3).]
- ²²⁴ Sch 1 repealed by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 4.
- ²²⁵ Definition of “charging order” added by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(2)(a).
- ²²⁶ Definition of ‘forfeiture order’ amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(2)(b).
- ²²⁷ Definition of ‘relevant offence’ added by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(2)(c).
- ²²⁸ Definition of ‘restraint order’ added by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(2)(c).
- ²²⁹ Item (d) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(3).

- ²³⁰ Subpara (1A) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(4).
- ²³¹ Item (c) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(5).
- ²³² Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(6).
- ²³³ Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(6).
- ²³⁴ Subpara (4) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(6).
- ²³⁵ Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(7).
- ²³⁶ Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(7).
- ²³⁷ Subpara (3) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(8).
- ²³⁸ Cross-heading inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(9).
- ²³⁹ Para 8A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(9).
- ²⁴⁰ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(10).
- ²⁴¹ Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(11).
- ²⁴² Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(11).
- ²⁴³ Subpara (2) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(11).
Item (c) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(11).
- ²⁴⁴ Item (a) substituted by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(12).
- ²⁴⁵ Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(12).
- ²⁴⁶ Para (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(13).
- ²⁴⁷ Cross-heading amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(15).
- ²⁴⁸ Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(14).
- ²⁴⁹ Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(14).
- ²⁵⁰ Subpara (5) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(14).
- ²⁵¹ Para (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(16).
- ²⁵² Subpara (4) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(17).
- ²⁵³ Cross-heading amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(19).
- ²⁵⁴ Definition of 'British Islands or external insolvency practitioner' amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(18).
- ²⁵⁵ Definition of 'relevant country or territory' repealed by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(18).
- ²⁵⁶ Subpara (5) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 41(17).
- ²⁵⁷ Sch 2A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 42.
- ²⁵⁸ Subpara (1A) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 43(2).
Ed. note: The amendment in s 43(2) of the Anti-Terrorism and Crime (Amendment) Act 2011 {insertion of para 3(1A)} applies only in relation to cash seized after that provision come into operation see s 53(2) (operative 13/7/2011 see SD515/11).
- ²⁵⁹ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 43(3).
Ed. note: The amendment in s 43(3) of the Anti-Terrorism and Crime (Amendment) Act 2011 {application of para 3(1A)} applies only in relation to cash seized after that provision come into operation see s 53(2) (operative 13/7/2011 see SD515/11).

²⁶⁰ Cross-heading substituted by Anti-Terrorism and Crime (Amendment) Act 2011 s 43(4).

²⁶¹ Para 7 substituted by Anti-Terrorism and Crime (Amendment) Act 2011 s 43(4).

Ed. note: The amendment in s 43(4) of the Anti-Terrorism and Crime (Amendment) Act 2011 {substitution of para 7} applies where the order or decision of the High Court against which the appeal is brought is made or given after that provision comes into operation see s 53(3) (operative 13/7/2011 see SD515/11).

²⁶² Cross-heading inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 43(4).

²⁶³ Para 7A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 43(4).

Ed. note: The amendment in s 43(4) of the Anti-Terrorism and Crime (Amendment) Act 2011 {insertion of para 7A} applies where the order or decision of the High Court against which the appeal is brought is made or given after that provision comes into operation see s 53(3) (operative 13/7/2011 see SD515/11).

²⁶⁴ Subpara (2) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 43(3).

Ed. note: The amendment in s 43(3) of the Anti-Terrorism and Crime (Amendment) Act 2011 { application of para 3(1A)} applies only in relation to cash seized after that provision come into operation see s 53(2) (operative 13/7/2011 see SD515/11).

²⁶⁵ Item (a) amended by Financial Services Act 2008 Sch 6.

²⁶⁶ Item (a) amended by Insurance Act 2008 Sch 8.

²⁶⁷ Item (a) substituted by Financial Services Act 2008 Sch 6.

²⁶⁸ Item (d) substituted by Financial Services Act 2008 Sch 6.

²⁶⁹ Item (f) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 44(a).

²⁷⁰ Item (i) amended by Insurance Act 2008 Sch 8.

²⁷¹ Item (j) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 44(b).

²⁷² Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 44(c).

²⁷³ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 44(c).

²⁷⁴ Item (b) substituted by Anti-Terrorism and Crime (Amendment) Act 2011 s 44(d).

²⁷⁵ Sch 4A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 45.

²⁷⁶ Item (a) amended by Fines and Penalties Act 2024 Sch 5.

²⁷⁷ Sch 5 heading amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

²⁷⁸ Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(2).

²⁷⁹ Subpara (2A) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(3).

²⁸⁰ Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(4).

²⁸¹ Item (d) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(4).

²⁸² Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(5).

²⁸³ Para 2A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(6).

²⁸⁴ Subpara (8) amended by Fines and Penalties Act 2024 Sch 4.

²⁸⁵ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).

²⁸⁶ Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).

²⁸⁷ Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).

²⁸⁸ Subpara (5) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).

²⁸⁹ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).

- ²⁹⁰ Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).
- ²⁹¹ Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).
- ²⁹² Item (b) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ²⁹³ Subpara (2) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ²⁹⁴ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).
- ²⁹⁵ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).
- ²⁹⁶ Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(8).
- ²⁹⁷ Subpara (3A) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(9).
- ²⁹⁸ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7) and (10).
- ²⁹⁹ Subpara (2) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7) and (10).
- ³⁰⁰ Subpara (2A) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(11).
- ³⁰¹ Subpara (2B) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(11).
- ³⁰² Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(12).
- ³⁰³ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 46(7).
- ³⁰⁴ Subpara (2) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ³⁰⁵ Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ³⁰⁶ Subpara (5) amended by Anti-Terrorism and Crime (Amendment) Act 2011 ss 46(13) and 52 and by Fines and Penalties Act 2024 Sch 5.
- ³⁰⁷ Subpara (5) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.
- ³⁰⁸ Para 17 inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ³⁰⁹ Item (b) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.
- ³¹⁰ Subpara (6) amended by Anti-Money Laundering and Other Financial Crime (Miscellaneous Amendments) Act 2018 s 7.
- ³¹¹ Para 3 amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 47(a).
- ³¹² Para 5 amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 47(a).
- ³¹³ Item (a) substituted by Financial Services Act 2008 Sch 6.
- ³¹⁴ Item (d) substituted by Financial Services Act 2008 Sch 6.
- ³¹⁵ Item (f) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 47(b).
- ³¹⁶ Item (i) amended by Insurance Act 2008 Sch 8.
- ³¹⁷ Item (j) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 47(c).
- ³¹⁸ Subpara (1) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 47(d).
- ³¹⁹ Subpara (3) amended by Anti-Terrorism and Crime (Amendment) Act 2011 ss 47(d) and 52 and by Fines and Penalties Act 2024 Sch 5.
- ³²⁰ Sub-para (5) amended by SD 861/11.

³²¹ Sub-para (1) amended by SD 861/11.

³²² Sub-para (1) amended by SD 861/11.

³²³ Sub-para (1) amended by SD 861/11.

³²⁴ Sub-para (4) amended by SD 861/11.

³²⁵ Subpara (2) amended by Fines and Penalties Act 2024 Sch 4.

³²⁶ Item (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 Sch 3.

³²⁷ Item (c) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 Sch 3.

³²⁸ Item (d) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 48(2) and by Criminal Justice, Police Powers and Other Amendments Act 2014 Sch 3.

³²⁹ Subpara (5) substituted by Proceeds of Crime Act 2008 Sch 7.

³³⁰ Subpara (5A) inserted by Proceeds of Crime Act 2008 Sch 7.

³³¹ Subpara (9) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 Sch 3.

³³² Subpara (3) substituted by Anti-Terrorism and Crime (Amendment) Act 2011 s 48(3).

³³³ Item (ba) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 48(4).

Ed. note: see s 53(4). The amendment made by s 48(4) of the Anti-Terrorism and Crime (Amendment) Act 2011 does not apply in a case in which —

- (a) the arrest of the person detained under section 30 of the Anti-Terrorism and Crime Act 2003 took place before the commencement of those provisions;
- (b) a person's examination under Schedule 7 (port controls) to that Act began before the commencement of those provisions.

(Section 48(4) operative 13/7/2011 see SD515/11.)

³³⁴ Subpara (4) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 48(5).

Ed. note: see s 53(4). The amendment made by s 48(5) of the Anti-Terrorism and Crime (Amendment) Act 2011 does not apply in a case in which —

- (a) the arrest of the person detained under section 30 of the Anti-Terrorism and Crime Act 2003 took place before the commencement of those provisions;
- (b) a person's examination under Schedule 7 (port controls) to that Act began before the commencement of those provisions.

(Section 48(5) operative 13/7/2011 see SD515/11.)

³³⁵ Item (a) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 48(6).

Ed. note: see s 53(4). The amendment made by s 48(6) of the Anti-Terrorism and Crime (Amendment) Act 2011 does not apply in a case in which —

- (a) the arrest of the person detained under section 30 of the Anti-Terrorism and Crime Act 2003 took place before the commencement of those provisions;
- (b) a person's examination under Schedule 7 (port controls) to that Act began before the commencement of those provisions.

(Section 48(6) operative 13/7/2011 see SD515/11.)

³³⁶ Subpara (1A) inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 48(7).

Ed. note: see s 53(4). The amendment made by s 48(7) of the Anti-Terrorism and Crime (Amendment) Act 2011 does not apply in a case in which —

- (a) the arrest of the person detained under section 30 of the Anti-Terrorism and Crime Act 2003 took place before the commencement of those provisions;
- (b) a person's examination under Schedule 7 (port controls) to that Act began before the commencement of those provisions.

(Section 48(7) operative 13/7/2011 see SD515/11.)

³³⁷ Subpara (2) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 48(8).

Ed. note: see s 53(4). The amendment made by s 48(8) of the Anti-Terrorism and Crime (Amendment) Act 2011 does not apply in a case in which —

- (a) the arrest of the person detained under section 30 of the Anti-Terrorism and Crime Act 2003 took place before the commencement of those provisions;
- (b) a person's examination under Schedule 7 (port controls) to that Act began before the commencement of those provisions.

(Section 48(8) operative 13/7/2011 see SD515/11.)

³³⁸ Item (c) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 48(9).

³³⁹ Subpara (3) substituted by Proceeds of Crime Act 2008 Sch 7.

³⁴⁰ Subpara (3A) inserted by Proceeds of Crime Act 2008 Sch 7.

³⁴¹ Sch 8A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 49.

³⁴² Sch 8B inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

³⁴³ Sch 9 repealed by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 4.

³⁴⁴ Sch 10 amended by Life Assurance (Insurable Interest) Act 2004 Sch 3. by Financial Services Act 2008 Sch 7 (with savings see para 5 of Sch 8) and by Insurance Act 2008 Sch 9.

³⁴⁵ Entry relating to the Sea Fisheries Act 1971 repealed by Fisheries Act 2012 Sch 3.

³⁴⁶ Entries relating to the Telecommunications Act 1984 repealed by Communications Act 2021 Sch 9.

³⁴⁷ Entry relating to Terrorism and Other Crime (Financial Restrictions) Act 2014 inserted by Terrorism and Other Crime (Financial Restrictions) Act 2014 Sch 3.

³⁴⁸ Entries relating to Communications Act 2021 inserted by Communications Act 2021 Sch 9.

³⁴⁹ Information about persons with access to dangerous substances [P/2001/24/61]

³⁵⁰ Item (b) amended by Anti-Terrorism and Crime (Amendment) Act 2011 s 52 and by Fines and Penalties Act 2024 Sch 5.

³⁵¹ Sch 13A inserted by Anti-Terrorism and Crime (Amendment) Act 2011 s 51.