



Jersey

**NUCLEAR MATERIAL (OFFENCES)
ACT 1983 (JERSEY) ORDER 1991**

Unofficial extended UK law

17.665

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APPENDIX



Jersey

NUCLEAR MATERIAL (OFFENCES) ACT 1983 (JERSEY) ORDER 1991

Jersey Order in Council 28/1991**THE NUCLEAR MATERIAL (OFFENCES) ACT 1983 (JERSEY) ORDER 1991**

(Registered on the 11th day of October 1991)

At the Court of Buckingham Palace

24th July 1991

PRESENT

The Queen's Most Excellent Majesty in Council

HER MAJESTY, in pursuance of section 7(2) of the Nuclear Material (Offences) Act 1983, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows –

1. This Order may be cited as the Nuclear Material (Offences) Act 1983 (Jersey) Order 1991 and shall come into force on 2nd October 1991.

2. Sections 1 to 4, 6 and 8 of and the Schedule to the Nuclear Material (Offences) Act 1983 shall extend to the Bailiwick of Jersey with exceptions, adaptations and modifications specified in the Schedule to this Order.

G.I. DE DENEY*Clerk of the Privy Council.*

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Order 199

SCHEDULE

(Article 2)

Exceptions, adaptations and modifications in the extension of provisions of the Nuclear Material (Offences) Act 1983 to the Bailiwick of Jersey

1. Any reference to an Act of Parliament, or to a provision thereof, shall be construed, unless the contrary intention appears, as a reference to that Act or provision as it has effect in the Bailiwick of Jersey.

2. Any reference to an enactment of the States of Jersey shall be construed as including a reference thereto as amended or replaced by or under any other such enactment.

3. For any reference to the United Kingdom, or to a part thereof, there shall be substituted a reference to the Bailiwick of Jersey.

4. In section 1(1), for paragraphs (a) to (d) there shall be substituted the following paragraphs –

- “(a) the offence of murder, manslaughter, grave and criminal assault or malicious damage, or
- (b) an offence under Article 17 of the Fire Service (Jersey) Law 1959, or
- (c) the offence of larceny, embezzlement, robbery or breaking and entering with intent, or
- (d) the offence of fraud or blackmail,”.

5. In section 2(5), words “on conviction of indictment” shall be omitted.

6. In section 3 –

- (a) in subsection (1), for paragraphs (a) and (b) there shall be substituted the words “in the Bailiwick of Jersey except by or with the consent of Her Majesty’s Attorney General for Jersey”, and
- (b) subsection (2) shall be omitted.

7. In section 4 –

- (a) in subsection (1)(a), the words “subsections (1) and (2) of” and “in each place” shall be omitted;
- (b) in subsection (1)(b), for “subsections (4) and (5)” there shall be substituted “subsection (4)”, and
- (c) subsections (2) and (3) shall be omitted.

8. In section 8, subsection (2) shall be omitted.

THE NUCLEAR MATERIAL (OFFENCES) ACT 1983

CHAPTER 18

ARRANGEMENT OF SECTIONS

Section

1. Extended scope of certain offences.
2. Offences involving preparatory acts and threats.
3. Supplemental.
4. Amendments of other Acts.
5. Extradition.
6. Material to which the Act applies.
7. Application to Channel Islands, Isle of Man, etc.
8. Short title and commencement.

SCHEDUL E Article 1(a) and (b) of the Convention.

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ELIZABETH II



1983 CHAPTER 18

AN ACT to implement the Convention on the Physical Protection of Nuclear Material; and for purposes connected therewith.

[9th May 1983]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows² –

Extended scope of certain offences

1.-(1) If a person, whatever his nationality, does outside the [Bailiwick of Jersey], in relation to or by means of nuclear material, any act which, had he done it in any part of the [Bailiwick of Jersey], would have made him guilty of –

- [(a) the offence of murder, manslaughter, grave and criminal assault or malicious damage, or
- (b) an offence under Article 17 of the Fire Service (Jersey) Law 1959,³ or
- (c) the offence of larceny, embezzlement, robbery or breaking and entering with intent, or
- (d) the offence of fraud or blackmail,]

he shall in any part of the [Bailiwick of Jersey] be guilty of such of the offences mentioned in paragraphs (a) to (d) above as are offences of which the act would have made him guilty had he done it in that part of the [Bailiwick of Jersey].

(2) In this section and in section 2 below, “act” includes omission.

Offences involving preparatory acts and threats

2.-(1) If a person, whatever his nationality, in the [Bailiwick of Jersey] or elsewhere contravenes subsection (2), (3) or (4) below he shall be guilty of an offence.

(2) A person contravenes this subsection if he receives, holds or deals with nuclear material –

² Deletions and words in square brackets indicate adaptations and modifications made by the Nuclear Material (Offences) Act 1983 (Jersey) Order 1991.

³ Tome VIII, page 788.

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- (a) intending, or for the purpose of enabling another, to do by means of that material an act which is an offence mentioned in paragraph (a) or (b) of subsection (1) of section 1 above; or
- (b) being reckless as to whether another would so do such an act.
- (3) A person contravenes this subsection if he –
 - (a) makes to another person a threat that he or any other person will do by means of nuclear material such an act as is mentioned in paragraph (a) of subsection (2) above; and
 - (b) intends that the person to whom the threat is made shall fear that it will be carried out.

(4) A person contravenes this subsection if, in order to compel a State, international governmental organisation or person to do, or abstain from doing, any act, he threatens that he or any other person will obtain nuclear material by an act which is an offence mentioned in paragraph (c) of subsection (1) of section 1 above.

(5) A person guilty of an offence under this section shall be liable * * * to imprisonment for a term not exceeding 14 years and not exceeding the term of imprisonment to which a person would be liable for the offence constituted by doing the contemplated act at the place where the conviction occurs and at the time of the offence to which the conviction relates.

- (6) In subsection (5) above “contemplated act” means, –
 - (a) where the conviction relates to an offence under subsection (2) above, the act intended or as to the doing of which the person convicted was reckless, as the case may be; and
 - (b) where the conviction relates to an offence under subsection (3) or (4) above, the act threatened.

(7) In this section references to an act which is an offence mentioned in paragraph (a), (b) or (c) of subsection (1) of section 1 above are references to an act which, by virtue of that subsection or otherwise, is an offence so mentioned.

3.-(1) Proceedings for an offence which (disregarding the provisions of the Internationally Protected Persons Act 1978 and the Suppression of Terrorism Act 1978) would not be an offence apart from the preceding provisions of this Act shall not be begun –

[in the Bailiwick of Jersey except by or with the consent of Her Majesty’s Attorney General for Jersey],

- (2) * * * * *

Amendments of other Acts

- 4.-(1)** In consequence of the provisions of this Act –

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- (a) in * * * * section 2 of the Internationally Protected Persons Act 1978 (which relates to certain offences committed outside the [Bailiwick of Jersey] after the words “Suppression of Terrorism Act 1978” there shall be inserted * * * the words “and the Nuclear Material (Offences) Act 1983”; and
- (b) in [subsection (4)] of section 4 of the Suppression of Terrorism Act 1978 (which also relates to certain offences committed outside the [Bailiwick of Jersey] after the words “Internationally Protected Persons Act 1978” there shall be inserted in each place the words “and the Nuclear Material (Offences) Act 1983”.
- (2) * * * * *
- (3) * * * * *

Extradition

5.-(1) There shall be deemed to be included –

- (a) in the list of extradition crimes in Schedule 1 to the Extradition Act 1870, and
- (b) among the description of offences set out in Schedule 1 to the Fugitive Offenders Act 1967,

any offence under section 2 of this Act.

(2) Where no such arrangement as is mentioned in section 2 of the Extradition Act 1870 has been made with a State which is a party to the Convention, an Order in Council applying the Act of 1870 may be made under that section as if the Convention were such an arrangement with that State; but where the Act of 1870 is so applied it shall have effect as if the only extradition crimes within the meaning of that Act were –

- (a) an offence mentioned in paragraphs (a) to (d) of subsection (1) of section 1 of this Act which is committed by doing an act in relation to or by means of nuclear material;
- (b) an offence under section 2 of this Act; and
- (c) an attempt to commit an offence mentioned in paragraph (a) or (b) above.

(3) For the purposes of the Extradition Act 1870 any act, wherever committed, which –

- (a) is an offence mentioned in subsection (2) above, and
- (b) is an offence against the law of any State in the case of which that Act is applied by an Order in Council under section 2 of that Act,

shall be deemed to be an offence committed within the jurisdiction of that State.

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(4) In this section and in section 6 below “the Convention” means the Convention on the Physical Protection of Nuclear Materials opened for signature at Vienna and New York on 3rd March 1980.

Material to which the Act applies

6.-(1) References in this Act to nuclear material are references to material which, within the meaning of the Convention, is nuclear material used for peaceful purposes.

(2) If in any proceedings a question arises whether any material was used for peaceful purposes, a certificate issued by or under the authority of the Secretary of State and stating that it was, or was not, so used at a time specified in the certificate shall be conclusive of that question.

(3) In any proceedings a document purporting to be such a certificate as is mentioned in subsection (2) above shall be taken to be such a certificate unless the contrary is proved.

(4) Paragraphs (a) and (b) of Article 1 of the Convention (which give the definition of “nuclear material” for the purposes of the Convention) are set out in the Schedule to this Act.

Application to Channel Islands, Isle of Man, etc

7.-(1) Sections 17 and 22 of the Extradition Act 1870 and sections 16 and 17 of the Fugitive Offenders Act 1967 (application to Channel Islands, Isle of Man and colonies) shall extend respectively to the provisions of this Act amending those Acts.

(2) Her Majesty may by Order in Council make provision for extending the other provisions of this Act, with such exceptions, adaptations or modifications as may be specified in the Order to any of the Channel Islands, the Isle of Man or any colony.

Short title and commencement

8.-(1) This Act may be cited as the Nuclear Material (Offences) Act 1983.

(2) * * * * *

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SCHEDULE

ARTICLE 1(a) AND (b) OF THE CONVENTION

ARTICLE 1

For the purposes of this Convention –

- (a) “nuclear material” means plutonium except that with isotopic concentration exceeding 80 per cent 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;
- (b) “uranium enriched in the isotope 235 or 233” means uranium containing the isotopes 235 and 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.