



Isle of Man

Ellan Vannin

AT 5 of 1995

MARITIME SECURITY ACT 1995



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**Isle of Man***Ellan Vannin*

MARITIME SECURITY ACT 1995

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AN ACT to give effect to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf which supplements that Convention; to make other provision for the protection of ships and harbour areas against acts of violence; and for connected purposes.

PART I – OFFENCES AGAINST THE SAFETY OF SHIPS AND FIXED PLATFORMS

1 Hijacking of ships

[P1990/31/9]

- (1) A person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it, commits the offence of hijacking a ship, whatever his nationality and whether the ship is in the Island or elsewhere, but subject to subsection (2).
- (2) Subsection (1) does not apply in relation to a warship or any other ship used as a naval auxiliary or in customs or police service unless —
 - (a) the person seizing or exercising control of the ship is a United Kingdom national, or
 - (b) his act is committed in the Island, or
 - (c) the ship is used in the naval or customs service of the Island or the United Kingdom or in the service of any police force in the Island or the United Kingdom.
- (3) A person guilty of the offence of hijacking a ship is liable on conviction on information to imprisonment for life.

2 Seizing or exercising control of fixed platforms

[P1990/31/10]

- (1) A person who unlawfully, by the use of force or by threats of any kind, seizes a fixed platform or exercises control of it, commits an offence, whatever his nationality and whether the fixed platform is in the Island or elsewhere.
- (2) A person guilty of an offence under this section is liable on conviction on information to imprisonment for life.

3 Destroying ships or fixed platforms or endangering their safety

[P1990/31/11]

- (1) Subject to subsection (5), a person commits an offence if he unlawfully and intentionally
 - (a) destroys a ship or a fixed platform,
 - (b) damages a ship, its cargo or a fixed platform so as to endanger, or to be likely to endanger, the safe navigation of the ship, or as the case may be, the safety of the platform, or
 - (c) commits on board a ship or on a fixed platform an act of violence which is likely to endanger the safe navigation of the ship, or as the case may be, the safety of the platform.
- (2) Subject to subsection (5), a person commits an offence if he unlawfully and intentionally places, or causes to be placed, on a ship or fixed platform any device or substance which —
 - (a) in the case of a ship, is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation, or
 - (b) in the case of a fixed platform, is likely to destroy the fixed platform or so to damage it as to endanger its safety.
- (3) Nothing in subsection (2) is to be construed as limiting the circumstances in which the commission of any act —
 - (a) may constitute an offence under subsection (1), or
 - (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of such an offence.
- (4) Except as provided by subsection (5), subsections (1) and (2) apply whether any such act as is mentioned in those subsections is committed in the Island or elsewhere and whatever the nationality of the person committing the act.
- (5) Subsections (1) and (2) do not apply in relation to any act committed in relation to a warship or any other ship used as a naval auxiliary or in customs or police service unless —
 - (a) the person committing the act is a United Kingdom national, or

- (b) his act is committed in the Island, or
 - (c) the ship is used in the naval or customs service of the Island or the United Kingdom or in the service of any police force in the Island or the United Kingdom.
- (6) A person guilty of an offence under this section is liable on conviction on information to imprisonment for life.
- (7) In this section –
- “act of violence” means –
- (a) any act done in the Island which constitutes an offence under section 18, 19, 20, 23, 26, 27, 33, 35, 36, 37, 38, 39, 43 or 44 of the *Criminal Code 1872* or under section 2 of the *Explosive Substances Act 1883*, and
 - (b) any act done outside the Island which, if done in the Island, would constitute such an offence as is mentioned in paragraph (a), and
- “unlawfully” –
- (a) in relation to the commission of an act in the Island, means so as (apart from this Act) to constitute an offence under the law of the Island, and
 - (b) in relation to the commission of an act outside the Island, means so that the commission of the act would (apart from this Act) have been an offence under the law of the Island if it had been committed in the Island.

4 Other acts endangering or likely to endanger safe navigation

[P1990/31/12]

- (1) Subject to subsection (6), it is an offence for any person unlawfully and intentionally –
- (a) to destroy or damage any property to which this subsection applies, or
 - (b) seriously to interfere with the operation of any such property,
- where the destruction, damage or interference is likely to endanger the safe navigation of any ship.
- (2) Subsection (1) applies to any property used for the provision of maritime navigation facilities, including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board a ship or elsewhere.
- (3) Subject to subsection (6), it is also an offence for any person intentionally to communicate any information which he knows to be false in a material particular, where the communication of the information endangers the safe navigation of any ship.

- (4) It is a defence for a person charged with an offence under subsection (3) to prove that, when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that he communicated the information in good faith in performance of those duties.
- (5) Except as provided by subsection (6), subsections (1) and (3) apply whether any such act as is mentioned in those subsections is committed in the Island or elsewhere and whatever the nationality of the person committing the act.
- (6) For the purposes of subsections (1) and (3) any danger, or likelihood of danger, to the safe navigation of a warship or any other ship used as a naval auxiliary or in customs or police service is to be disregarded unless —
 - (a) the person committing the act is a United Kingdom national, or
 - (b) his act is committed in the Island, or
 - (c) the ship is used in the naval or customs service of the Island or the United Kingdom or in the service of any police force in the Island or the United Kingdom.
- (7) A person guilty of an offence under this section is liable on conviction on information to imprisonment for life.
- (8) In this section “unlawfully” has the same meaning as in section 3.

5 Offences involving threats

[P1990/31/13]

- (1) A person commits an offence if —
 - (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any ship or fixed platform an act which is an offence by virtue of section 3(1), and
 - (b) the making of that threat is likely to endanger the safe navigation of the ship or, as the case may be, the safety of the fixed platform.
- (2) Subject to subsection (4), a person commits an offence if —
 - (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do an act which is an offence by virtue of section 4(1), and
 - (b) the making of that threat is likely to endanger the safe navigation of any ship.
- (3) Except as provided by subsection (4), subsections (1) and (2) apply whether any such act as is mentioned in those subsections is committed in the Island or elsewhere and whatever the nationality of the person committing the act.

- (4) Section 4(6) applies for the purposes of subsection (2)(b) as it applies for the purposes of section 4(1) and (3).
- (5) A person guilty of an offence under this section is liable on conviction on information to imprisonment for life.

6 Ancillary offences

[P1990/31/14]

- (1) Where a person (of whatever nationality) does outside the Island any act which, if done in the Island, would constitute an offence falling within subsection (2), his act shall constitute that offence if it is done in connection with an offence under section 1, 2, 3 or 4 committed or attempted by him.
- (2) The offences falling within this subsection are the offences referred to in the definition of “act of violence” in section 3(7).
- (3) Subsection (1) has effect without prejudice to section 686 or 687 of the Merchant Shipping Act 1894 (offences committed on board British ships or by British seamen) (an Act of Parliament) or section 8 of the *Mineral Workings (Offshore Installations) (Isle of Man) Act 1974* (application of criminal law to offshore installations).
- (4) It is an offence for any person in the Island to induce or assist the commission outside the Island of any act which —
 - (a) would, but for section 1(2), be an offence under that section, or
 - (b) would, but for section 3(5), be an offence under that section, or
 - (c) would, but for section 4(6), be an offence under that section, or
 - (d) would, but for section 5(4), be an offence under that section.
- (5) A person who commits an offence under subsection (4) is liable on conviction on information to imprisonment for life.
- (6) Subsection (4) has effect without prejudice to the operation, in relation to any offence under section 1, 3, 4 or 5 of this Act or sections 350, 351 and 356 of the *Criminal Code 1872*.

7 Master’s power of delivery

[P1990/31/15]

- (1) The provisions of this section shall have effect for the purposes of any proceedings before any court in the Island.
- (2) If the master of a ship, wherever that ship may be, and whatever the State (if any) in which it may be registered, has reasonable grounds to believe that any person on board the ship has —
 - (a) committed any offence under section 1, 3, 4 or 5,
 - (b) attempted to commit such an offence, or

- (c) aided, abetted, counselled, procured or incited the commission of such an offence,
- in relation to any ship other than a warship or other ship used as a naval auxiliary or in customs or police service, he may deliver that person to an appropriate officer in the Island or any other Convention country.
- (3) Where the master of a ship intends to deliver any person in the Island or any other Convention country in accordance with subsection (2) he shall give notification to an appropriate officer in that country —
- (a) of his intention to deliver that person to an appropriate officer in that country; and
- (b) of his reasons for intending to do so.
- (4) Any notification under subsection (3) must be given —
- (a) before the ship in question has entered the territorial sea of the country concerned; or
- (b) if in the circumstances it is not reasonably practicable to comply with paragraph (a), as soon as reasonably practicable after the ship has entered that territorial sea.
- (5) Where the master of a ship delivers any person to an appropriate officer in any country under subsection (2) he shall —
- (a) make to an appropriate officer in that country such oral or written statements relating to the alleged offence as that officer may reasonably require; and
- (b) deliver to an appropriate officer in that country such other evidence relating to the alleged offence as is in the master's possession.
- (6) The master of a ship who without reasonable excuse fails to comply with subsection (3) or (5) is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (7) It is a defence for a master of a ship charged with an offence under subsection (6) of failing to comply with subsection (3) to show that he believed on reasonable grounds that the giving of the notification required by subsection (3) would endanger the safety of the ship and, except where the country concerned is the Island, that either —
- (a) he notified some other competent authority in the country concerned within the time required by subsection (4), or
- (b) he believed on reasonable grounds that the giving of notification to any competent authority in that country would endanger the safety of the ship.
- (8) In this section —
- “appropriate officer” means —
- (a) in relation to the Island, a constable or immigration officer, and

- (b) in relation to any other Convention country outside the Island, an officer having functions corresponding to the functions in the Island either of a constable or of an immigration officer,

“Convention country” means a country in which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, which was signed at Rome on 10th March 1988, is for the time being in force; if Her Majesty has by Order in Council made under section 15 of the Aviation and Maritime Security Act 1990 (an Act of Parliament) certified that any country specified in the Order is for the time being a Convention country, any such Order in Council for the time being in force shall be conclusive evidence that the country in question is for the time being a Convention country;

“master” has the same meaning as in section 78(1) of the *Merchant Shipping Registration Act 1991*.

8 Directions for preserving security of petroleum and petroleum products

- (1) The Department may, after consultation with the Department of Environment, Food and Agriculture and with a person to whom this section applies, give to that person such directions of a general character as appear to the Department to be requisite or expedient for the purpose of preserving the security of any offshore installation, onshore terminal or oil refinery.¹
- (2) If it appears to the Department to be requisite or expedient to do so for the purpose mentioned in subsection (1), it may, after consultation with the Department of Environment, Food and Agriculture and with a person to whom this section applies, give to that person a direction requiring him (according to the circumstances of the case) to do, or not to do, a particular thing specified in the direction.²
- (3) A person to whom this section applies shall give effect to any direction given to him under this section notwithstanding any other duty imposed on him by or under any enactment.
- (4) The Department shall lay before Tynwald a copy of every direction given under this section unless it is of the opinion that disclosure of the direction is against the interests of national security or the commercial interests of any person.
- (5) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done by virtue of this section if the Department has notified him that it is of the opinion that disclosure of that thing is against the interests of national security or the commercial interests of some other person.
- (6) This section applies to any person who is the operator of an offshore installation, onshore terminal or oil refinery.

(7) In this section —

“offshore installation” has the same meaning as in section 1(3) of the *Mineral Workings (Offshore Installations) (Isle of Man) Act 1974*;

“oil refinery” includes an installation for processing petroleum products;

“onshore terminal” means an onshore terminal which receives petroleum directly or indirectly from an offshore installation;

“petroleum” has the same meaning as in the *Petroleum Act 1986*;

“petroleum products” means the following substances produced directly or indirectly from crude, namely, fuels, lubricants, bitumen, wax, industrial spirits and any wide-range substance (meaning a substance whose final boiling point at normal atmospheric pressure is more than 50 degrees C higher than its initial boiling point).

9 Interpretation of Part I

[P1990/31/17]

In this Part —

“**fixed platform**” means —

- (a) any offshore installation, within the meaning of section 1(3) of the *Mineral Workings (Offshore Installations) (Isle of Man) Act 1974*, which is not a ship, and
- (b) any other artificial island, installation or structure which —
 - (i) permanently rests on, or is permanently attached to, the seabed,
 - (ii) is maintained for the purposes of the exploration or exploitation of resources or for other economic purposes, and
 - (iii) is not connected with dry land by a permanent structure providing access at all times and for all purposes;

“**naval service**” includes military and air force service;

“**ship**” means any vessel (including hovercraft, submersible craft and other floating craft) other than one which —

- (a) permanently rests on, or is permanently attached to, the seabed, or
- (b) has been withdrawn from navigation or laid up; and

“**United Kingdom national**” means any individual who is —

- (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the *British Nationality Act 1981* (an Act of Parliament) is a British subject, or
- (c) a British protected person (within the meaning of that Act).

PART II – PROTECTION OF SHIPS AND HARBOUR AREAS AGAINST ACTS OF VIOLENCE

General purposes

10 Purposes to which Part II applies

[P1990/31/18]

- (1) The purposes to which this Part applies are the protection against acts of violence —
 - (a) of ships, and of persons or property on board ships, and
 - (b) of harbour areas, of such persons as are at any time present in any part of a harbour area and of such property as forms part of a harbour area or is at any time (whether permanently or temporarily) in any part of a harbour area.
- (2) In this Part “**act of violence**” means any act (whether actual or potential, and whether done or to be done in the Island or elsewhere) which either —
 - (a) being an act done in the Island, constitutes, or
 - (b) if done in the Island would constitute,an offence referred to in the definition of “act of violence” in section 3(7).
- (3) In this Part “**harbour area**” means the area within the limits of any harbour (within the meaning of the *Harbours Act 2010*).³

Powers of Department

11 Searches in harbour areas

[P1990/31/22]

- (1) For purposes to which this Part applies, the Department may secure that searches to which this section applies are carried out by authorised persons.
- (2) In this Part “**authorised person**” means —
 - (a) a member of the Isle of Man Constabulary;
 - (b) any other constable; and
 - (c) a person authorised under subsection (3).
- (3) The Department may by instrument in writing designate fit and proper persons as authorised persons under subsection (2)(c) for any of the purposes of this Part but the Department shall not authorise any person to exercise any power to undertake searches of persons unless it is satisfied that the appointee is suitably qualified and has received appropriate training.

- (4) An authorised person shall, if required, produce written evidence of his appointment when exercising any power under this Part.
- (5) An authorised person shall not exercise any power under this Part to search any person unless the authorised person is specifically authorised by the Department to exercise such power.
- (6) The searches to which this section applies, in relation to a harbour area, are searches —
 - (a) of the harbour area or any part of it,
 - (b) of any ship which at the time when the direction is given or at any subsequent time is in the harbour area,
 - (c) of property (other than ships) which may at any time be in the harbour area; and
 - (d) subject to subsection (5), of persons.
- (7) Subject to subsections (8) and (9), if an authorised person has reasonable cause to suspect that an article to which this subsection applies is in, or may be brought into, any part of the harbour area, he may, by virtue of this subsection and without a warrant, search any part of the harbour area or any ship, vehicle, goods or other movable property of any description which, or any person who, is for the time being in any part of the harbour area, and for that purpose —
 - (a) may enter any building or works in the harbour area, or enter upon any land in the harbour area, if need be by force,
 - (b) may go on board any such ship and inspect the ship,
 - (c) may stop any such ship and, for so long as may be necessary for that purpose, prevent it from being moved, and
 - (d) may stop any such vehicle, goods, property or person and detain it or him for so long as may be necessary for that purpose.
- (8) In the case of premises used only as a private dwelling any power to search or enter conferred by subsection (7) may not be exercised except by a member of the Isle of Man Constabulary under the authority of a warrant issued by a justice of the peace.
- (9) If, on an application made by a member of the Isle of Man Constabulary, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an article to which subsection (7) applies is in any premises used only as a private dwelling, he may issue a warrant authorising a member of the Isle of Man Constabulary to enter and search the premises.
- (10) Subsection (7) applies to the following articles —
 - (a) any firearm, or any article having the appearance of being a firearm, whether capable of being discharged or not,
 - (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance

of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive, and

- (c) any article (not falling within either of the preceding paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property, or intended by the person having it with him for such use, whether by him or by any other person.
- (11) Any person who intentionally obstructs an authorised person acting in the exercise of a power conferred on him by subsection (7) is guilty of an offence and is liable –
- (a) on summary conviction, to a fine not exceeding £5,000;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.
- (12) Subsection (7) has effect without prejudice to the operation, in relation to any offence under this Act of any rule of law relating to the power to arrest without warrant.

12 Power of Department to require information

[P1990/31/19]

- (1) The Department may, by notice in writing served on any of the following persons –
- (a) the owner, charterer, manager or master of –
 - (i) a Manx ship, or
 - (ii) any other ship which is in, or appears to the Department to be likely to enter, a harbour area,
 - (b) any person who carries on harbour operations in a harbour area, and
 - (c) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him,

require that person to provide the Department with such information specified in the notice as the Department may require in connection with the exercise by the Department of its functions under this Part.

- (2) A notice under subsection (1) shall specify a date (not being earlier than 7 days from the date on which the notice is served) before which the information required by the notice in accordance with subsection (1) is to be furnished to the Department.
- (3) Any such notice may also require the person on whom it is served, after he has furnished to the Department the information required by the notice in accordance with subsection (1), to inform the Department if at any time

the information previously furnished to the Department (including any information furnished in pursuance of a requirement imposed by virtue of this subsection) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes to which this Part applies or the alteration or discontinuance of any measures already being taken).

- (4) In so far as such a notice requires further information to be furnished to the Department in accordance with subsection (3), the Department shall require that information to be furnished to it before the end of such period (not being less than 7 days from the date on which the change of circumstances occurs) as is specified in the notice for the purposes of this subsection.
- (5) Any person who —
- (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this section, or
 - (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,
- shall be guilty of an offence and shall be liable —
- (i) on summary conviction, to a fine not exceeding £5,000;
 - (ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.
- (6) A notice served on a person under subsection (1) may at any time —
- (a) be revoked by a notice in writing served on him by the Department, or
 - (b) be varied by a further notice under subsection (1).
- (7) Information furnished to the Department under this section may be passed to the Secretary of State.

13 Designation of restricted zones of harbour areas

[P1990/31/20]

- (1) The Department may by order designate the whole or any part of a harbour area as a restricted zone for the purposes of this Part.
- (2) The whole or any part of a harbour area may be designated as a restricted zone, or part of a restricted zone, for specified days or times of day only.

14 Unauthorised presence in restricted zone

[P1990/31/39]

- (1) A person shall not —
- (a) go, with or without a vehicle or vessel, onto or into any part of a restricted zone of a harbour area except with the permission of the

Department or a person acting on behalf of the Department and in accordance with any conditions subject to which that permission is for the time being granted, or

- (b) remain in any part of such a restricted zone after being requested to leave by the Department or a person acting on behalf of the Department.
- (2) Subsection (1)(a) does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.
- (3) A person who contravenes subsection (1) without lawful authority or reasonable excuse is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

15 Power to impose restrictions in relation to ships

[P1990/31/21]

- (1) For purposes to which this Part applies, the Department may give a direction in writing to the owner, charterer, manager or master of a Manx ship, or of any other ship which is in a harbour area, requiring that person —
 - (a) not to cause or permit persons or property to go or be taken on board any ship to which the direction relates, or to come or be brought into proximity to any such ship, unless such searches of those persons or that property as are specified in the direction have been carried out in such manner and by such persons as the Department may require, or
 - (b) not to cause or permit any such ship to go to sea unless such searches of the ship as are specified in the direction have been carried out.
- (2) Subject to the following provisions of this Part, a direction given to an owner, charterer or manager of a ship under subsection (1) may be given so as to relate either to all the ships falling within that subsection of which at the time when the direction is given or at any subsequent time he is the owner, charterer or manager or only to one or more such ships specified in the direction.
- (3) Subject to the following provisions of this Part, a direction under subsection (1) may be given so as to relate —
 - (a) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction, and
 - (b) either to property of every description or only to particular property, or property of one or more descriptions, so specified.

- (4) Subject to the following provisions of this Part, any direction given under this section to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.
- (5) A direction may be given under this section to a person appearing to the Department to be about to become such a person as is mentioned in subsection (1), but a direction given to a person by virtue of this subsection shall not take effect until he becomes a person so mentioned and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.
- (6) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section is guilty of an offence and liable —
 - (a) on summary conviction, to a fine not exceeding £5,000;
 - (b) on conviction on information, to a fine or to imprisonment for a term not exceeding 2 years or to both.
- (7) Where a person is convicted of an offence under subsection (6), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding £200 for each day on which the failure continues.

16 General power to direct measures to be taken for purposes to which Part II applies

[P1990/31/24]

- (1) Subsection (2) applies to —
 - (a) any person who is the owner, charterer or manager of one or more ships which —
 - (i) are Manx ships, or
 - (ii) are in a harbour area,
 - (b) any person who carries on harbour operations in a harbour area, and
 - (c) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him.
- (2) Subject to the following provisions of this section, the Department may give a direction in writing to any person to whom this subsection applies requiring him to take such measures for purposes to which this Part applies as are specified in the direction —
 - (a) in the case of a direction given to a person as the owner, charterer or manager of a ship, in respect of all the ships falling within

- subsection (1)(a) of which (at the time when the direction is given or at any subsequent time) he is the owner, charterer or manager, or in respect of any such ships specified in the direction,
- (b) in the case of a direction given to a person as a person falling within subsection (1)(b), in respect of the harbour operations carried on by him, and
 - (c) in the case of a direction given to a person as a person who is permitted to have access to a restricted zone as mentioned in subsection (1)(c), in respect of such activities carried on by that person in that zone as are specified in the direction.
- (3) Without prejudice to the generality of subsection (2), the measures to be specified in a direction given under this section to any person to whom that subsection applies may include the provision by that person of persons charged with the duty (at such times as may be specified in the direction) —
- (a) where the direction is given to a person as the owner, charterer or manager of ships, of guarding the ships against acts of violence,
 - (b) where the direction is given to a person as falling within subsection (1)(b), of guarding against acts of violence any ship in the harbour area which is for the time being under his control, or
 - (c) where the direction is given to a person as falling within subsection (1)(c), of guarding any ship which is for the time being under his control,
- for purposes to which this Part applies.
- (4) A direction given under this section may be either of a general or of a specific character, and may require any measures specified in the direction to be taken at such time or within such period as may be so specified.
- (5) A direction under this section —
- (a) shall not require any search (whether of persons or of property),
 - (b) shall not require the modification or alteration of any ship, or of any of its apparatus or equipment, or the installation or carriage of additional apparatus or equipment, or prohibit any ship from being caused or permitted to go to sea without some modification or alteration of the ship or its apparatus or equipment or the installation or carriage of additional apparatus or equipment, and
 - (c) shall not require a building or other works to be constructed, executed, altered, demolished or removed on land within the harbour area.
- (6) A direction may be given under this section to a person appearing to the Department to be about to become a person to whom subsection (2) applies, but a direction given to a person by virtue of this subsection shall not take effect until he becomes a person to whom subsection (2) applies

and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.

- (7) Any person who without reasonable excuse, fails to comply with a direction given to him under this section, commits an offence and is liable —
 - (a) on summary conviction, to a fine not exceeding £5,000;
 - (b) on conviction on information, to a fine or to imprisonment for a term not exceeding 2 years or to both.
- (8) Where a person is convicted of an offence under subsection (7), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding £200 for each day on which the failure continues.

Supplemental provisions with respect to directions

17 Limitations on scope of directions under sections 15 and 16

[P1990/31/26]

- (1) A direction shall not have effect in relation to any ship used in naval, customs or police service.
- (2) A direction shall not have effect in relation to any ship which is registered outside the Island and of which the owner is the Government of a country outside the Island, or is a department or agency of such a Government, except at a time when any such ship is being used for commercial purposes or is for the time being allocated by that Government, department or agency for such use.
- (3) A direction shall not be construed as requiring or authorising the person to whom the direction was given, or any person acting as his employee or agent, to do anything which, apart from the direction, would constitute an act of violence; but nothing in this subsection shall restrict the use of such force as is reasonable in the circumstances (whether at the instance of the person to whom the direction was given or otherwise) by an authorised person.
- (4) In so far as a direction requires anything to be done or not done at a place outside the Island —
 - (a) it shall not have effect except in relation to Manx ships, and
 - (b) it shall not have effect so as to require anything to be done or not done in contravention of any provision of the law (whether civil or criminal) in force at that place, other than any such provision relating to breach of contract.
- (5) In so far as a direction given to any person mentioned in section 16(1)(b) or (c) requires any measure (other than a building or other works to be

constructed, executed, altered, demolished or removed on land outside the harbour area) to be taken on such land, the direction shall not confer on the person to whom it is given any rights as against a person having —

- (a) an interest in that land, or
- (b) a right to occupy that land; or
- (c) a right restrictive of its use;

and accordingly, the direction shall not be construed as requiring the person to whom it is given to do anything which would be actionable at the suit or instance of a person having such interest or right in his capacity as a person having that interest or right.

- (6) Nothing in this section shall be construed as derogating from any exemption or immunity of the Crown in relation to the provisions of this Part.
- (7) In this section “direction” means a direction under section 15 or 16.

18 General or urgent directions under sections 15 and 16

[P1990/31/27]

- (1) A direction given to any person under section 15 or 16 need not be addressed to that particular person, but may be framed in general terms applicable to all persons to whom such a direction may be given or to any class of such persons to which that particular person belongs.
- (2) If it appears to the Department that an exception from any direction given under any of those sections is required as a matter of urgency in any particular case it may, by a notification given (otherwise than in writing) to the person for the time being subject to the direction, authorise that person to disregard the requirements of the direction —
 - (a) in relation to such ships or class of ships, in relation to such harbour area or part of a harbour area, in relation to such land outside a harbour area, in relation to such activities or in relation to such persons or property or such description of persons or property, and
 - (b) on such occasion or series of occasions, or for such period,as it may specify; and the direction shall have effect in that case subject to any exceptions so specified.
- (3) Any notification given to any person under subsection (2) with respect to any direction shall cease to have effect (if it has not already done so) —
 - (a) if a direction in writing is subsequently given to that person varying or revoking the original direction, or
 - (b) if no such direction in writing is given within the period of 30 days beginning with the date on which the notification was given, at the end of that period.

- (4) Any notification given under subsection (2) shall be regarded as given to the person to whom it is directed if it is given —
- (a) to any person authorised by that person to receive any such direction or notification,
 - (b) where that person is a body corporate, to the secretary, clerk or similar officer of the body corporate, and
 - (c) in any other case, to anyone holding a comparable office or position in that person's employment.

19 Operation of directions under Part II in relation to rights and duties under other laws

[P1990/31/34]

- (1) In subsections (2) to (4), references to a direction are references to a direction under section 15 or 16 as the direction has effect subject to any limitation imposed on its operation —
- (a) by section 17, or
 - (b) by any exemption or immunity of the Crown;
- and any reference in those subsections to compliance with a direction is a reference to compliance with it subject to any limitation so imposed.
- (2) In so far as a direction requires anything to be done or not done in the Island, the direction shall have effect notwithstanding anything contained in any contract (whether an Isle of Man contract or not) or contained in, or having effect by virtue of, any other Act or any rule of law; and accordingly no proceedings (whether civil or criminal) shall lie against any person in any court in the Island by reason of anything done or not done by him or on his behalf in compliance with a direction.
- (3) In so far as a direction requires anything to be done or not done at a place outside the Island, the direction shall have effect notwithstanding anything contained in any contract (whether an Isle of Man contract or not); and accordingly, where a direction is inconsistent with anything in such a contract, it shall (without prejudice to any proceedings in a court other than a court in the Island) be construed as requiring compliance with the direction notwithstanding that compliance would be in breach of that contract.
- (4) No proceedings for breach of contract shall lie against any person in a court in the Island by reason of anything done or not done by him or on his behalf at a place outside the Island in compliance with a direction, if the contract in question is an Isle of Man contract.
- (5) In this section “Isle of Man contract” means a contract which is either expressed to have effect in accordance with the law of the Isle of Man or (not being so expressed) is a contract the law applicable to which is the law of the Isle of Man.

20 Detention of ships

[P1990/31/35]

- (1) Where the Department is satisfied that the owner, charterer, manager or master of a ship has failed to comply with a direction given to him under section 15 or 16 in respect of that ship, and the Department certifies in writing to that effect, stating particulars of the non-compliance, the ship may be detained by an authorised person or other officer until the Department otherwise directs.
- (2) The Department shall deliver the certificate to the authorised person or the officer detaining the ship.
- (3) On detaining the ship, the authorised person or other officer shall deliver to the master of the ship a copy of the certificate.

*Offences relating to security of ships and harbour areas***21 False statements relating to baggage, cargo etc**

[P1990/31/37]

- (1) Subject to subsection (3), a person commits an offence if, in answer to a question which —
 - (a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by sea —
 - (i) by a Manx ship, or
 - (ii) by any other ship to or from the Island, and
 - (b) is put to him for purposes to which this Part applies —
 - (i) by any of the persons mentioned in subsection (2), or
 - (ii) by any employee or agent of such a person in his capacity as employee or agent,he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.
- (2) The persons referred to in subsection (1)(b) are —
 - (a) the Department;
 - (b) an authorised person;
 - (c) the owner, charterer or manager of any ship, and
 - (d) any person who —
 - (i) is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him, and
 - (ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates.

- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding £5,000.
- (4) In this section —
 - “cargo” includes mail;
 - “ships” does not include a ship in naval, customs or police service; and
 - “stores” means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

22 False statements in connection with identity documents

[P1990/31/38]

- (1) Subject to subsection (4), a person commits an offence if —
 - (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this subsection applies, or
 - (b) in connection with the continued holding by him or another of any such document which has already been issued,he makes to any of the persons specified in subsection (3), to any employee or agent of such a person or to a constable, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a constable, a statement which is false in a material particular.
- (2) Subsection (1) applies to any identity document which is to be or has been issued by any of the persons specified in subsection (3) in accordance with arrangements the maintenance of which is required by a direction given by the Department under section 16.
- (3) The persons referred to in subsection (1) are —
 - (a) the owner, charterer or manager of any ship, and
 - (b) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding £5,000.

23 Offences relating to authorised persons

[P1990/31/40]

- (1) A person who —
 - (a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under this Part, or
 - (b) falsely pretends to be an authorised person,

- commits an offence.
- (2) A person guilty of an offence under subsection (1)(a) is liable —
 - (a) on summary conviction, to a fine not exceeding £5,000;
 - (b) on conviction on information, to a fine or to imprisonment for a term not exceeding 2 years or to both.
 - (3) A person guilty of an offence under subsection (1)(b) is liable on summary conviction to a fine not exceeding £5,000.

Reporting of certain occurrences

24 Duty to report certain occurrences

[P1990/31/42]

- (1) For purposes to which this Part applies, the Department may by regulations require such persons as are specified in the regulations to make a report to it, in such manner and within such period as are so specified, of any occurrence of a description so specified.
- (2) Before making any regulations under this section, the Department shall consult organisations appearing to it to represent persons affected by the proposed regulations.
- (3) Regulations under this section may —
 - (a) provide that any person who, in making a report required by the regulations, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, is to be guilty of an offence and liable —
 - (i) on summary conviction, to a fine not exceeding £5,000;
 - (ii) on conviction on information, to a fine or to imprisonment for a term not exceeding 2 years or to both; and
 - (b) provide for persons to be guilty of an offence in such other circumstances as may be specified in the regulations and to be liable on summary conviction to a fine not exceeding £5,000.
- (4) Regulations under this section may require the reporting of occurrences taking place outside the Island only if those occurrences relate to Manx ships.
- (5) Regulations under this section shall not come into operation unless they are approved by Tynwald.

*General supplemental provisions***25 Service of documents**

[P1990/31/45]

- (1) This section has effect in relation to any notice, any document containing a direction and any other document authorised or required by any provision of this Part to be served on or given to any person.
- (2) Any such document may be given to or served on any person —
 - (a) by delivering it to him, or
 - (b) by leaving it at his proper address, or
 - (c) by sending it by post to him at that address, or
 - (d) by sending it to him at that address by telex or other similar means which produce a document containing the text of the communication.
- (3) Any such document may, in the case of a body corporate, be given to or served on the secretary, clerk or similar officer of that body.
- (4) For the purposes of this section and Part 4, Division 5 of the *Interpretation Act 2015* (service of documents) in its application to this section, the proper address of any person to whom or on whom any document is to be given or served is his usual or last known address or place of business (whether in the Island or elsewhere), except that in the case of a body corporate or its secretary, clerk or similar officer it shall be the address of the registered or principal office of that body in the Island (or, if it has no office in the Island, of its principal office, wherever it may be).⁴
- (5) In the case of a person registered under any of the Island registration provisions as the owner of any ship so registered, the address for the time being recorded in relation to him in the register in which the ship is registered shall also be treated for the purposes of this section and Division 5 of Part 4 of the *Interpretation Act 2015* as his proper address.⁵
- (6) If the person to or on whom any document mentioned in subsection (1) is to be given or served has notified the Department of an address within the Island, other than an address determined under subsection (4) or (5), as the one at which he or someone else on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this section and Division 5 of Part 4 of the *Interpretation Act 2015* as his proper address.⁶
- (7) Any document mentioned in subsection (1) shall, where there are 2 or more owners registered under any of the Island registration provisions, be treated as duly served on each of those owners —
 - (a) in the case of a ship in relation to which a representative person is for the time being registered under the *Merchant Shipping Registration Act 1991*, if served on that person, and

- (b) in the case of any other ship, if served on any one of the registered owners.
- (8) Where any document mentioned in subsection (1) is to be served on the master of a ship, it shall be treated as duly served if it is left on board that ship with the person being or appearing to be in command or charge of the ship.
- (9) In this section “the Island registration provisions” means the *Merchant Shipping Registration Act 1991*.

26 Interpretation of Part II

[P1990/31/46]

(1) In this Part —

“**act of violence**” shall be construed in accordance with section 10(2);

“**article**” includes any substance, whether in solid or liquid form or in the form of a gas or vapour;

“**authorised person**” has the meaning given by section 11(2);

“**employee**”, in relation to a body corporate, includes officer;

“**explosive**” means any article manufactured for the purpose of producing a practical effect by explosion, or intended for that purpose by a person having the article with him;

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

“**harbour**” has the same meaning as in the *Harbours Act 2010*;⁷

“**harbour area**” has the meaning given by section 10(3);

“**harbour operations**” means —

- (a) the marking or lighting of a harbour or any part thereof;
- (b) the berthing or dry docking of a ship;
- (c) the warehousing, sorting, weighing or handling of goods on harbour land or at a wharf;
- (d) the movement of goods or passengers within the limits within which the person engaged in improving, maintaining or managing a harbour has jurisdiction or on harbour land;
- (e) in relation to a harbour (which expression for the purposes of this paragraph does not include a wharf) —
 - (i) the towing, or moving of a ship which is in or is about to enter or has recently left the harbour;
 - (ii) the loading or unloading of goods, or embarking or disembarking of passengers, in or from a ship which is in the harbour or the approaches thereto;
 - (iii) the lighterage or handling of goods in the harbour; and

- (f) in relation to a wharf, —
 - (i) the towing or moving of a ship to or from the wharf;
 - (ii) the loading or unloading of goods, or the embarking or disembarking of passengers, at the wharf in or from a ship;

“**Manx ship**” means a ship which —

- (a) is registered in the Island under the *Merchant Shipping Registration Act 1991*; or
- (b) is not registered under the law of any country and —
 - (i) is owned by a person who is resident in the Island or a body corporate which is incorporated in the Island; and
 - (ii) is entitled to be registered in the Island under Part I of the *Merchant Shipping Registration Act 1991*;

“**master**” has the same meaning as in section 7;

“**measures**” (without prejudice to the generality of that expression) includes the institution or modification, and the supervision and enforcement, of any practice or procedure;

“**naval service**” includes military and air force service;

“**owner**”, in relation to a ship registered in the Island or in any other country, means registered owner;

“**property**” includes any land, buildings or works, any ship or vehicle and any baggage, cargo or other article of any description;

“**restricted zone**”, in relation to a harbour area, means any part of the harbour area designated under section 13 or, where the whole of the harbour area is so designated, that area; and

“**ship**” includes hovercraft and every other description of vessel used in navigation.

- (2) Any power to give a direction under any provision of this Part includes power to revoke or vary any such direction by a further direction.
- (3) For the purposes of this Part a person is permitted to have access to a restricted zone of a harbour area if he is permitted to enter that zone or if arrangements exist for permitting any of his employees or agents to enter that zone.

PART III – MISCELLANEOUS AND GENERAL

27 Interpretation

In this Act —

“**country**” includes territory;

“**constable**” includes any person having the powers and privileges of a constable;
“**Department**” means the Department of Infrastructure.⁸

28 Offences

[P1990/31/16 and 50]

- (1) Proceedings for an offence under this Act shall not be instituted except by, or with the consent of, the Attorney General.
- (2) Where an offence under this Act (including any provision of Part II as applied by regulations made under section 19) has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (3) Where the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

29 Expenses

[P1990/31/52]

There shall be paid out of money provided by Tynwald any expenses of the Department under this Act and any increase attributable to this Act in the sums so payable under any other Act.

30 Short title, commencement and extent

- (1) This Act may be cited as the Maritime Security Act 1995.
- (2) This Act shall come into operation on such day as the Department may by order appoint and different days may be so appointed for different provisions or different purposes.⁹

ENDNOTES

Table of Endnote References

- ¹ Subs (1) amended by SD155/10 Sch 3.
- ² Subs (2) amended by SD155/10 Sch 3.
- ³ Subs (3) amended by Harbours Act 2010 Sch 4.
- ⁴ Subs (4) amended by Interpretation Act 2015 s 106.
- ⁵ Subs (5) amended by Statute Law Revision Act 2021 s 28.
- ⁶ Subs (6) amended by Statute Law Revision Act 2021 s 28.
- ⁷ Definition of 'harbour' amended by Harbours Act 2010 Sch 4.
- ⁸ Definition of 'the Department' amended by SD155/10 Sch 5.
- ⁹ ADO (whole Act) 1/1/1996 (SD649/95).