



Isle of Man

Ellan Vannin

AT 6 of 2011

**ANTI-TERRORISM AND CRIME
(AMENDMENT) ACT 2011**



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ANTI-TERRORISM AND CRIME (AMENDMENT) ACT 2011

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**Isle of Man***Ellan Vannin*

ANTI-TERRORISM AND CRIME (AMENDMENT) ACT 2011

Received Royal Assent: 12 July 2011
Announced to Tynwald: 12 July 2011
Commenced: 1 January 2012

AN ACT to amend further the *Anti-Terrorism and Crime Act 2003*; to make minor amendments to other related legislation; and for connected purposes.

PART 1 – OPENING PROVISIONS

1 Short title

The short title of this Act is the *Anti-Terrorism and Crime (Amendment) Act 2011*.

2 Commencement

- (1) This Act (other than this section and section 1) comes into operation on such day or days as the Department of Home Affairs by order appoints and different days may be appointed for different provisions and for different purposes.¹
- (2) An order under subsection (1) may include such transitional and saving provisions as are necessary or expedient.

PART 2 – AMENDMENTS TO ANTI-TERRORISM AND CRIME ACT 2003

3 Amendment of *Anti-Terrorism and Crime Act 2003*

The *Anti-Terrorism and Crime Act 2003* is amended as follows.

4 Section 1 amended

[P2008/28/93]

- (1) Section 1 is amended as follows —
- (2) [Amended subsection (1)(b)]
- (3) [Amended subsection (2)(d)]
- (4) [Amended subsection (2)]
- (5) [Inserted subsections (6) and (7)]

5 Section 2 amended

[P2006/11/22(2)]

[Inserted subsection (5)]

6 Section 9 substituted

[Substituted section 9]

7 Section 10 amended

- (1) Section 10 is amended as follows.
- (2) [Amended subsection (1)]
- (3) [Inserted paragraphs(1)(aa) and (ab)]
- (4) [Repealed subsection (2).]
- (5) [Inserted subsection (4)]

8 Section 11 amended

[P2008/28/77(2)]

[Amended section 11(1)(b)]

9 Section 13 amended

- (1) Section 13 is amended as follows —
- (2) [Amended subsection (2)]
- (3) [Amended subsection (3)(a)]
- (4) [Amended subsection (4)(a)]
- (5) [Repealed subsection (7)]

10 Section 15A inserted

[Inserted new section 15A]

11 Section 16 substituted and sections 16A to 16C inserted

[Substituted section 16 and inserted new section 16A to 16C]

12 Part IIIA inserted

[Inserted new Part IIIA (sections 18A to 18W)]

13 Section 29 amended

[Amended section 29(1)(a)]

14 Section 31A inserted

[Inserted new section 31A]

15 Sections 32A to 32I inserted

[Inserted new sections 32A to 32I]

16 Part VA inserted

After section 41 (but before the heading to Part VI) insert —

▣ PART VA - INTERVIEWING OF TERRORIST SUSPECTS**41A Post-charge questioning**

[P2008/28/22]

- (1) The High Bailiff may authorise the questioning of a person about an offence —
 - (a) after the person has been charged with the offence or been officially informed that he or she may be prosecuted for it; or
 - (b) after the person has been sent for trial for the offence, if the offence is an offence under this Act or it appears to the judge that the offence has a terrorist connection.
- (2) The High Bailiff —
 - (a) must specify the period during which questioning is authorised; and
 - (b) may impose such conditions as appear to be necessary in the interests of justice, which may include conditions as to the place where the questioning is to be carried out.
- (3) The period during which questioning is authorised —

- (a) begins when questioning pursuant to the authorisation begins and runs continuously from that time (whether or not questioning continues); and
- (b) must not exceed 48 hours.

This is without limiting any application for a further authorisation under this section.

- (4) Where the person is in prison or otherwise lawfully detained, the judge may authorise the person's removal to another place and detention there for the purpose of being questioned.
- (5) The High Bailiff must not authorise the questioning of a person under this section unless satisfied —
 - (a) that further questioning of the person is necessary in the interests of justice;
 - (b) that the investigation for the purposes of which the further questioning is proposed is being conducted diligently and expeditiously; and
 - (c) that what is authorised will not interfere unduly with the preparation of the person's defence to the charge in question or any other criminal charge.
- (6) Codes of practice under section 75 of the PPPA must make provision about the questioning of a person by a constable in accordance with this section.
- (7) Nothing in this section prevents codes of practice under section 75 of the PPPA making other provision for the questioning of a person by a constable about an offence —
 - (a) after the person has been charged with the offence or been officially informed that they may be prosecuted for it; or
 - (b) after the person has been sent for trial for the offence.
- (8) Nothing in section 72 or 73 of the PPPA (effect of accused's failure or refusal to account for certain matters) is to be read as excluding the operation of those sections in relation to a request made in the course of questioning under this section.
- (9) In this section "PPPA" means the *Police Powers and Procedures Act 1998*.

41B Recording of interviews

[P2008/28/25]

- (1) This section applies to any interview of a person by a constable under section 41A (post-charge questioning).

- (2) Any such interview must be video recorded, and the video recording must be with sound.
- (3) The Department must issue a code of practice about the video recording of interviews to which this section applies.
- (4) The interview and video recording must be conducted in accordance with that code of practice.

41C Issue and revision of code of practice

[P2008/28/26]

- (1) This section applies to the code of practice under section 41B (recording of interviews).
- (2) The Department must —
 - (a) publish a draft of the proposed code; and
 - (b) consider any representations made about the draft,
 and may modify the draft in the light of the representations made.
- (3) The Department must lay a draft of the code before Tynwald.
- (4) After laying the draft code before Tynwald the Department may bring it into operation by order.
- (5) The Department may revise a code and issue the revised code, and subsections (2) to (4) apply to a revised code as they apply to an original code.
- (6) Failure to observe a provision of a code does not of itself render a constable liable to criminal or civil proceedings.
- (7) A code —
 - (a) is 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. ²

17 Section 42 amended

[P2008/28/Sch 3, para (2)]

[Repealed subsections 42(8) to (10)]

18 Section 45 amended

[P2006/11/13]

[Amended section 45(4)(a)]

19 Section 46 amended

[P2008/28/Sch 3, para 3]

[Repealed subsections 46(5) to (7)]

20 Sections 46A to 46D inserted

[Inserted new sections 46A to 46D]

21 Sections 47A to 47D inserted

[P2006/11/1-4]

[Inserted new sections 47A to 47D]

22 Section 49 amended

[P2006/11/17]

(1) Section 49 is amended as follows.

(2) [Amended subsection (1)(b)]

(3) [Inserted subsections (3) and (4)]

(4) [Amended marginal note]

23 Section 49A inserted

[Inserted new section 49A]

24 Part VIA inserted

[Inserted new Part VIA (sections 49B to 49H)]

25 Sections 50 and 51 substituted and section 51A inserted

[Substituted section 50 and 51 and inserted new section 51A]

26 Section 52 amended

[Substituted subsection (1) and inserted new subsection (1A)]

27 Section 53 amended

(1) Section 53 is amended as follows.

(2) [Amended subsection (1)(a)]

(3) [Inserted subsection (2)(c)]

(4) [Inserted subsection (3)(c)]

(5) [Amended subsections (2)(a) and (3)(a)]

28 Section 58 amended

[P2008/28/Sch 1 para 1]

- (1) Section 58 is amended as follows.
- (2) [Repealed subsection (3)(e)]
- (3) [Amended subsection (8)]
- (4) [Repealed definition of “intelligence services” in subsection (10)]
- (5) [Amended subsection (3)]

29 Section 58A inserted

[P2008/28/19 & 20]

[Inserted new section 58A]

30 Section 60 amended

- (1) Section 60 is amended as follows.
- (2) [Amended subsection (1)(c)]
- (3) [Inserted subsections (2)(e) and (f).]
- (4) [Amended subsection (2)(c)]

31 Part IXA inserted (sections 62A to 62C)

[P2006/11/9-11]

[Inserted new Part IXA (sections 62A to 62C)]

32 Section 69 amended

[P2006/11/22(7)]

- (1) Section 69 is amended as follows.
- (2) [Inserted subsection (1A)]
- (3) [Amended subsection (2)]
- (4) [Amended subsection (4)]

33 Section 70 amended

[P2008/28/Sch 3 para 4]

[Amended section 70(1)]

34 Sections 72A to 72C inserted

[Inserted new sections 72A to 72C]

35 Section 75 amended

[P2006/11/9, 10 & 20; P1983/18/Sch; P1965/57/26; P1946/80/18; P1986/38/13; P2008/28/94(1)]

- (1) [Renumbered existing text as subsection (1) and inserted definitions]
- (2) [Inserted subsection 75(2)]

36 Section 76 amended

[Amended section 76]

37 Section 76A inserted

[Inserted new section 76A]

38 Section 77 amended

[Amended section 77(3)]

39 Section 82 amended

- (1) [Amended section 82(4)]
- (2) [Revoked the Anti-Terrorism and Crime Act 2003 (Continuation) Order 2008¹]

40 Schedule 1 amended

[Amended Schedule 1, paragraph 1(g)]

41 Schedule 2 amended

[P2008/28/Sch 3 para 5]

- (1) Schedule 2 (forfeiture orders) is amended as follows.
- (2) [Amended paragraph 1]
- (3) [Amended paragraph 2(1)(d)]
- (4) [Inserted paragraph 2(1A)]
- (5) [Amended paragraph 4(1)(c)]
- (6) [Amended paragraph 5]
- (7) [Amended paragraph 6(4)]
- (8) [Amended paragraph 8]
- (9) [Inserted paragraph 8A]
- (10) [Amended paragraph 9(1)]

¹ SD 33/08

- (11) [Amended paragraph 9(2)]
- (12) [Amended paragraph 10]
- (13) [Amended paragraph 12]
- (14) [Amended paragraph 14]
- (15) [Amended cross-heading immediately before paragraph 14]
- (16) [Amended paragraph 15]
- (17) [Amended paragraphs 21 and 23]
- (18) [Amended paragraph 22(3)]
- (19) [Amended cross-heading immediately before paragraph 22]

42 Schedule 2A inserted

[Inserted Schedule 2A set out in Schedule 1 to this Act]

43 Schedule 3 amended

[P2008/28/83 & 84]

- (1) Schedule 3 (forfeiture of terrorist cash) is amended as follows.
- (2) [Inserted subparagraph 3(1A)]
- (3) [Amended paragraphs 4(1) and 10(2)]
- (4) [Substituted paragraph 7 and inserted paragraph 7A]

44 Schedule 4 amended

In Schedule 4 —

- (a) [Amended paragraph 1(1)(f)]
- (b) [Inserted paragraph 1(1)(j)]
- (c) [Amended paragraphs 2(1) and 3(1)]
- (d) [Substituted paragraph 7(2)(b)]

45 Schedule 4A inserted

[Inserted Schedule 4A set out in Schedule 2 to this Act]

46 Schedule 5 amended

[P2006/11/26]

- (1) Part 1 of Schedule 5 (terrorist investigations: information) is amended as follows.
- (2) [Amended paragraph 1(2)]
- (3) [Inserted subparagraph 1(2A)]

- (4) [Amended paragraph 1(5)]
- (5) [Amended paragraph 2(1)]
- (6) [Inserted paragraph 2A]
- (7) [Amended the following provisions —
 - (a) paragraph 5(1), (4)(a) and (b) and (5)
 - (b) paragraph 6(1);
 - (c) paragraph 7(1)(b) and (3)(b);
 - (d) paragraph 9(1);
 - (e) paragraph 10(1);
 - (f) paragraph 11(1) and (2); and
 - (g) paragraph 12(1)]
- (8) [Amended paragraph 10(2)(a)]
- (9) [Insert subparagraph 10(3A)]
- (10) [Amended paragraphs 11(1) and (2)]
- (11) [Inserted subparagraphs 11(2A) and (2B)]
- (12) [Amended paragraph 11(4)(b)]
- (13) [Amended paragraph 14(5)]

47 Schedule 6 amended

In Schedule 6 —

- (a) [Amended paragraphs 3 and 5]
- (b) [Amended paragraph 6(1)(f)]
- (c) [Inserted paragraph 6(1)(j)]
- (d) [Amended paragraphs 8(1) and (3)]

48 Schedule 8 amended

[P2006/11/24 & P2008/28/82(1) & Sch 3 para 6]

- (1) Schedule 8 (detention) is amended as follows.
- (2) [Amended paragraph 8(4)(d)]
- (3) [Substituted paragraph 9(3)]
- (4) [Inserted paragraph 19(1)(ba)]
- (5) [Amended paragraph 19(4)]
- (6) [Amended paragraph 28(1)(a)]
- (7) [Inserted subparagraph 28(1A)]
- (8) [Amended paragraph 28(2)]

(9) [Amended paragraph 30(2)(c)]

49 Schedule 8A inserted

[Inserted Schedule 8A as set out in Schedule 3 to this Act]

50 Schedule 9 amended

[Substituted paragraphs 8(2) and (3) and inserted paragraphs 8(4) to (6)]

51 Schedule 13A inserted

[Inserted Schedule 13A as set out in Schedule 4 to this Act]

52 Increase in maximum custodial sentence for summary offences

[Amended the provisions specified in Schedule 5 to this Act]

53 Application

[P2006/11/13(2) & 24(6) & P2008/28/83(4) & 84(2)]

- (1) The amendment in section 18 does not apply to offences committed before the commencement of that section.
- (2) The amendments in section 43(2) and (3) apply only in relation to cash seized after those provisions come into operation.
- (3) The amendment in section 43(4) 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.
- (4) The amendments made by section 48(4) to (8) do 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.

PART 3 – AMENDMENTS TO OTHER ENACTMENTS

54 Consequential amendment to Explosive Substances Act 1883

[P2006/11/17(5)] [V p.262]

[Amended sections 3(1)(a) and (b) of the *Explosive Substances Act 1883*]

55 Consequential amendment to Police Powers and Procedures Act 1998

[P2008/28/22(9)]

[Inserted section 70(1)(c) in the *Police Powers and Procedures Act 1998*]**56 Consequential amendments to Proceeds of Crime Act 2008**

[P2008/28/Sch 3 para 7]

- (1) The *Proceeds of Crime Act 2008* is amended as follows.
- (2) [Amended section 73(3)(d) of the *Proceeds of Crime Act 2008*]
- (3) [Amended section 130(c) of the *Proceeds of Crime Act 2008*]

57 Amendments to Terrorism (Finance) Act 2009

- (1) The *Terrorism (Finance) Act 2009* is amended as follows.
- (2) [Amended section 3]
- (3) [Inserted new section 4A]
- (4) [Inserted new section 10A]
- (5) [Inserted new section 13A]
- (6) [Substituted section 19(1)(a)]
- (7) [Repealed section 19(2)]
- (8) [Substituted section 23(3), repealed section 23(4) and amended section 23(5)]
- (9) [Inserted new Part 3A heading and new section 27A]
- (10) [Inserted paragraph 3(1)(d) and paragraph 3(6)]

SCHEDULE 1

SCHEDULE 2A INSERTED

Section 42

[Inserted Schedule 2A in the *Anti-Terrorism and Crime Act 2003*]

SCHEDULE 2

SCHEDULE 4A INSERTED

Section 45

[Inserted Schedule 4A in the *Anti-Terrorism and Crime Act 2003*]

SCHEDULE 3

SCHEDULE 8A INSERTED

Section 49

[Inserted Schedule 8A in the *Anti-Terrorism and Crime Act 2003*]

SCHEDULE 4

SCHEDULE 13A INSERTED

Section 51

[Inserted Schedule 13A in the *Anti-Terrorism and Crime Act 2003*]

SCHEDULE 5

**INCREASE IN MAXIMUM CUSTODIAL SENTENCE FOR
SUMMARY OFFENCES**

Section 52

[Amended the following sections of the *Anti-Terrorism and Crime Act 2003* by substituting “12 months” for “6 months” —

Section 3(3)(b)

Section 4(6)(b)

Section 5(2)

Section 7(5)(b)

Section 8(3)(b)

Section 9(2)(b)

Section 10(3)(b)

Section 11(9)(b)

Section 14(12)(b)

Section 26(5)(b)

Section 27(7)(b)

Section 36(2)

Section 42(7)(b)

Section 45(4)(b)

Section 46(4)(b)

Section 57(6)(b)

Section 60(4)(a)

Section 61(3)(a)

Section 66(4)

Paragraphs 13(2)(b), 14(5) and 15(5) of Schedule 5

Paragraph 8(3) of Schedule 6

Paragraphs 6(6)(a) and 6(7) of Schedule 9

Paragraph 12(3)(b) of Schedule 13]

ENDNOTES

Table of Endnote References

¹ ADO - whole Act, except s 16 in operation 13/7/2011 [SD515/11].

² S 16 not operative (see SD515/11).