

ORGANISED AND INTERNATIONAL CRIME ACT 2010

Arrangement of Sections

Section

PART 1

OPENING PROVISIONS

1. Short title

PART 2

ORGANISED AND INTERNATIONAL CRIME

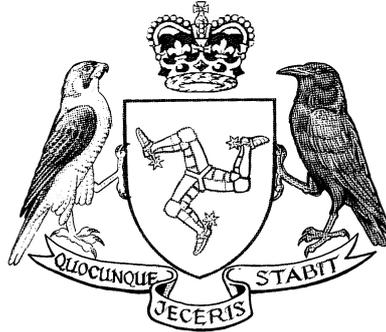
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Isle of Man } Signed in Tynwald: 13th July 2010
 in Wit } Received Royal Assent: 13th July 2010
 Announced to Tynwald: 13th July 2010

AN ACT

to give effect, as part of the law of the Island, to the United Nations Convention against Transnational Organized Crime adopted by the General Assembly of the United Nations and opened for signature in Palermo in 2000 and the Protocols to that Convention to Prevent, Suppress and Punish Trafficking in Persons and Against the Smuggling of Migrants; to amend the International Criminal Court Act 2003; to make amendments to the Telecommunications Act 1984 and the Proceeds of Crime Act 2008; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1

OPENING PROVISIONS

1. The short title of this Act is the Organised and International Crime Act 2010. Short title

PART 2

ORGANISED AND INTERNATIONAL CRIME

2. (1) A person commits an offence if he or she —

Participation
in a criminal
organisation

- (a) participates in a criminal organisation, knowing that it is a criminal organisation; and
- (b) knows, or is reckless as to whether, his or her participation contributes, or may contribute, to the commission of a serious offence against the law of a State.

(2) A person who commits an offence contrary to subsection (1) is liable on conviction on information to custody for not more than 10 years, a fine, or both.

(3) For the purposes of this section —

- (a) a “criminal organisation” is a group of 3 or more persons who have as their objective, or one of their objectives, the immediate obtaining (directly or indirectly) of a material benefit from the commission of a serious offence against the law of a State by the organisation or an associated person, but does not include a group that is randomly formed for the commission of a single offence;
- (b) a group of 3 or more persons may be a criminal organisation regardless of whether —
 - (i) some are subordinates or employees of other members of the group or of other persons;
 - (ii) only some of those involved in the group at a particular time are involved in the planning, arrangement or execution of any particular act;
 - (iii) its membership changes from time to time;
 - (iv) the persons are present in the Island;
 - (v) a serious offence against the law of a State was committed by the organisation or an associated person, or was intended to be so committed (anywhere in the world);
 - (vi) any person received a material benefit from the commission of a serious offence against the law of a State by the organisation or an associated person;
- (c) “associated person” in relation to a criminal organisation means a member, associate member or prospective member;

(d) “participation in a criminal organisation” includes in particular —

- (i) agreeing with another to participate in an act that contributes, or may contribute, to the commission of a serious offence against the law of a State;
- (ii) organising, directing, participating in or assisting in, the commission of a serious offence against the law of a State by the organisation or an associated person,

but a person is only to be taken to participate in a criminal organisation if he or she is an associated person in relation to that organisation; and

(e) “a serious offence against the law of a State” means —

- (i) an offence against the law of the Island that is punishable by more than 4 years’ custody; or
- (ii) an offence against the law of any other State that, had it been committed in the Island, would have been so punishable.

(4) In proceedings for an offence contrary to subsection (1) against a person for participating in the criminal organisation, it is not necessary to prove that —

- (a) a serious offence was committed by the organisation or an associated person;
- (b) a serious offence committed or intended to be committed by the organisation or an associated person was committed or intended to be committed in the Island;
- (c) any person received a material benefit from the commission of a serious offence by the organisation or an associated person; or
- (d) the person knew the identity of any member of the organisation.

3. (1) A person commits an offence if he or she —

People smuggling

- (a) arranges for an unauthorised migrant to enter a State;
- (b) does so for the purpose of obtaining, directly or indirectly, a material benefit for himself or herself or another; and

- (c) knows, or is reckless as to whether, the unauthorised migrant is an unauthorised migrant.
- (2) A person commits an offence if he or she —
 - (a) arranges for an unauthorised migrant to be brought to a State;
 - (b) does so for the purpose of obtaining, directly or indirectly, a material benefit for himself or herself or another;
 - (c) knows, or is reckless as to whether, the unauthorised migrant is an unauthorised migrant; and
 - (d) knows, or is reckless as to whether, the unauthorised migrant intends to enter the State.
- (3) A person commits an offence if he or she —
 - (a) enables a person who is not a national or a permanent resident of a State to remain in the State by the means described in section 6 (travel documentation offences) or any other illegal means;
 - (b) does so for the purpose of obtaining, directly or indirectly, a material benefit for himself or herself or another; and
 - (c) knows that the person mentioned in paragraph (a) is not a national or a permanent resident of the State or is reckless as to the person's status.
- (4) A person who commits an offence against subsection (1), (2) or (3) is liable, on conviction on information, to custody for a term of not more than 20 years and to a fine.
- (5) An offence against subsection (1) may be committed even if the unauthorised migrant in relation to whom the alleged offence occurred —
 - (a) consented to the arrangement for him or her to enter the State; or
 - (b) did not enter the State in respect of which the arrangement was made.
- (6) An offence against subsection (2) may be committed even if the unauthorised migrant in relation to whom the alleged offence occurred —

- (a) consented to the arrangement for him or her to be brought to the State; or
- (b) was not brought to the State in respect of which the arrangement was made.

(7) In this section —

“arrange for an unauthorised migrant to be brought to a State” includes —

- (a) organising, or procuring, the bringing of an unauthorised migrant to a State;
- (b) recruiting a person to be brought, as an unauthorised migrant, to a State;
- (c) carrying an unauthorised migrant to a State;

“arrange for an unauthorised migrant to enter a State” includes —

- (a) organising or procuring the entry of an unauthorised migrant into a State;
- (b) recruiting a person to enter, as an unauthorised migrant, into a State;
- (c) carrying an unauthorised migrant into a State;

“unauthorised migrant”, in relation to a State, means a person who —

- (a) is not a citizen of the State; and
- (b) does not have in his or her possession all the documents required by or under the law of the State lawfully to enter the State.

4. (1) A person commits an offence if, for the purposes of the physical exploitation of another person, he or she — Trafficking
in persons

- (a) recruits or arranges for the other person to enter a State, or travel within a State; or
- (b) arranges, organises or procures the reception, concealment or harbouring, in a State of the other person.

(2) If the person physically exploited or intended to be physically exploited is aged 18 years or more, a person only

commits an offence against subsection (1) if the recruitment, arrangement, organisation or procurement is by means of —

- (a) the threat or use of force or other forms of coercion;
- (b) abduction;
- (c) fraud or deception;
- (d) the abuse of power or of a position of vulnerability; or
- (e) the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

(3) A person who commits an offence against subsection (1) is liable, on conviction on information, to custody for a term of not more than 20 years and to a fine.

(4) An offence against subsection (1) may be committed even if the person physically exploited or intended to be physically exploited —

- (a) did not in fact enter, or travel within, the State; or
- (b) was not in fact received, concealed, or harboured, in the State.

(5) An offence against subsection (1) may be committed in respect of a person aged 18 years or more even if steps in the process by which the person entered, or was to enter, the State, or travelled, or was to travel, within the State, did not involve means described in subsection (2).

(6) In this section, any reference to the physical exploitation of a person means any of the following —

- (a) the use of the person for sexual purposes;
- (b) the removal of a body part from the person, unless for the benefit (other than the financial, monetary, or equivalent, benefit) of the person;
- (c) the use of the person in forced labour or services, slavery or practice similar to slavery, or servitude.

(7) Subsection (6)(a) includes, in particular —

- (a) the taking, or transmission, by any means, of an image of the person engaged in real or simulated sexual activities;

- (b) the taking, or transmission, by any means, of images of the person's genitalia, anus, or breasts, for the purpose of obtaining, directly or indirectly, a material benefit for the person or any other person;
- (c) the person's participation, for the purpose of obtaining, directly or indirectly, a material benefit for the person or any other person, in a performance or display, or other employment, that involves the exposure of the person's genitalia, anus or breasts.

(8) But subsection (6)(a) does not include —

- (a) the taking, in good faith, for purposes primarily other than the exposure of body parts of the person for the sexual gratification of a viewer, of an image of the person as part of an artistic or cultural performance or display;
- (b) the taking or transmission of an image of the person for the purpose of —
 - (i) depicting, for the instruction or information of health professionals, a medical condition or a surgical or medical technique;
 - (ii) providing medical or health education;
 - (iii) providing information relating to medical or health matters; or
 - (iv) advertising a product, instrument, or service, intended to be used for medical or health purposes.

(9) The other person in respect of whom an offence against this section is committed, or is suspected of being committed, must not be charged as a party to the offence.

5. (1) In determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against section 3 or 4, a court must take into account —

- (a) whether bodily harm or death (whether to or of a person in respect of whom the offence was committed or some other person) occurred during the commission of the offence;
- (b) whether the life or safety of any person in respect of whom the offence was committed was endangered or likely to be endangered;

Aggravating factors in relation to migrant smuggling and trafficking in persons

- (c) whether the offence was committed for the benefit of, at the direction of, or in association with, a criminal organisation within the meaning of section 2;
- (d) whether a person in respect of whom the offence was committed was subject to inhuman or degrading treatment as a result of the commission of the offence; and
- (e) if during the relevant criminal proceedings the person was convicted of the same offence in respect of 2 or more people, the number of people in respect of whom the offence was committed.

(2) In determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against section 4 (trafficking), a court must also take into account —

- (a) whether a person in respect of whom the offence was committed was also subject to other exploitation (including, in particular physical exploitation of the other person, within the meaning of that section) as a result of the commission of the offence;
- (b) the age of the person in respect of whom the offence was committed and, in particular, whether the person was under the age of 18 years; and
- (c) whether the person committed the offence, or took actions that were part of the offence, for a material benefit.

(3) This section does not limit the matters to which a court may have regard when determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against section 3 or 4.

Travel
documentation
offences

6. (1) A person commits an offence if he or she forges, or falsifies, a travel document that he or she knows, or has reason to suspect, is intended to be used in the course of, or for purposes related to, the commission of an offence against section 3 by any person.

(2) A person commits an offence if, without reasonable excuse —

- (a) knowing a travel document to be forged, or false, he or she —
 - (i) uses it, deals with it, or acts upon it, as if it were genuine, or
 - (ii) causes another person to use it, deal with it, or act upon it, as if it were genuine,

in the course of, or for purposes related to, the commission of an offence against section 3 by any person;

- (b) he or she has in his or her possession, or under his or her control, a travel document that he or she knows or has reason to suspect —
 - (i) is a forged or false travel document, and
 - (ii) is intended to be used in the course of, or for purposes related to, the commission of an offence contrary to section 3 by any person;
- (c) he or she sells, hires, lends, gives, or otherwise disposes of to another person, a travel document that he or she knows or has reason to suspect —
 - (i) is a forged or false travel document, and
 - (ii) is intended to be used in the course of, or for purposes related to, the commission of an offence against section 3 by any person; or
- (d) he or she —
 - (i) makes, uses, has in his or her possession, or disposes of to another person, any paper or other material that he or she knows is specially provided by the proper authorities of a State for any purpose related to travel documents of the State, and
 - (ii) knows or has reason to suspect that the paper or other material is intended to be used in the course of, or for purposes related to, the commission of an offence against section 3 by any person.

(3) A person who commits an offence against subsection (1) or (2) is liable, on conviction on information, to custody for a term of not more than 10 years and to a fine.

(4) In this section —

“document” includes a thing that is, or is intended to be —

- (a) attached to a document; or
- (b) stamped or otherwise signified on a document;

“forge” includes doing any of following —

- (a) making a copy of an existing document or writing with the intention of representing it to be the original document or writing;
- (b) altering an existing document or writing with the intention of representing the altered document or writing to be the original document or writing;
- (c) making a document or writing that purports to be made or issued by or on behalf of a person who did not make or issue it or authorise its making or issue, or who does not exist, with the intention of representing it as made or issued by or on behalf of that person;
- (d) making a document or writing that falsely purports to be made at a particular place or time, or before or witnessed by a particular person, with the intention of representing that such particulars are true;

“travel document” includes an identification document.

Obstructing
justice

- 7.** (1) A person commits an offence if, for the purpose of —
- (a) inducing false testimony;
 - (b) interfering with the giving of testimony; or
 - (c) interfering with the production of evidence,

in relation to proceedings in respect of an offence against a provision of this Part, he or she takes a prohibited step.

(2) For the purposes of subsection (1), the prohibited steps are —

- (a) using physical force, or threats, against;
- (b) intimidating or attempting to intimidate; or
- (c) promising, or offering, a benefit to,

a witness, a judge, a constable, the Collector of Customs and Excise or a customs officer, who takes part in or engages in activities in respect of the proceedings.

(3) A person who commits an offence against subsection (1) is liable on conviction on information to custody for a term of not more than 15 years, a fine, or both.

(4) In subsection (1) a reference to proceedings in respect of an offence against a provision of this Part includes proceedings

in respect of an offence, against a provision of another enactment, of —

- (a) attempting to commit an offence against a provision of this Part;
- (b) aiding, abetting, counselling or procuring the commission of an offence against a provision of this Part; or
- (c) conspiring or inciting another person to commit an offence against a provision of this Part.

(5) In this section —

“customs officer” means a person authorised in writing by the Treasury to be an officer of customs and excise; and

“judge” means a Deemster, a judicial officer within the meaning of section 3C of the High Court Act 1991, a High Bailiff or a magistrate. [c.12]

8. (1) Proceedings for an offence alleged to have been committed by a person against a provision of this Part (including an offence against any provision referred to in another subsection of this section) may be brought although some or all of the acts alleged to constitute the offence occurred outside the Island, if the person — Territorial application

- (a) is ordinarily resident in the Island;
- (b) has been found in the Island and has not been extradited; or
- (c) is a body corporate incorporated under a law of the Island.

(2) Proceedings against a person for an offence against a provision of this Part (including an offence against any provision referred to in another subsection of this section) may be brought although some or all of the acts alleged to constitute the offence occurred outside the Island, if a person in relation to whom the offence is alleged to have been committed —

- (a) is ordinarily resident in the Island; or
- (b) has been found in the Island.

(3) Proceedings against a person for an offence against section 2 may be brought although some or all of the acts alleged

to constitute the offence occurred outside the Island, if subsection (4) applies to the person.

(4) This subsection applies to a person if the criminal organisation, within the meaning of section 2, in which the person is alleged to have participated is alleged to have as its objective (or one of its objectives) the obtaining of material benefits by the commission in the Island of an offence against the law of the Island that is a serious arrestable offence within the meaning of section 79 of the Police Powers and Procedures Act 1998.

[c. 9]

(5) Proceedings for an offence against section 3(1) may be brought although some or all of the acts alleged to constitute the offence occurred outside the Island, if the act or omission is alleged to relate to arranging for a person to enter the Island.

(6) Proceedings for an offence against section 3(2) by a person may be brought although some or all of the acts alleged to constitute the offence occurred outside the Island, if the act or omission is alleged to relate to arranging to bring a person to the Island.

(7) Proceedings for an offence against section 4 by a person may be brought although some or all of the acts alleged to constitute the offence occurred outside the Island, if the act or omission is alleged to relate to arranging for a person to enter the Island or to travel to the Island.

General provisions as to offences under this Part

9. (1) A person who —

- (a) aids, abets, counsels or procures the commission of an offence under any provision of this Part (a “principal offence”); or
- (b) conspires, attempts or incites another to commit a principal offence,

is also guilty of the offence and liable in the same manner as a principal offender to the penalty provided for the principal offence.

(2) A person alleged to have committed an offence by virtue of subsection (1) shall be triable in the same manner as a person would be tried for the principal offence.

(3) If an offence against any provision of this Part committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

- (a) a person who is a director, manager, secretary or other similar officer of the body corporate; or

(b) any person purporting to act in any such capacity,

the person is also guilty of the offence and liable to the penalty provided for that offence.

(4) If the affairs of a body corporate are managed by its members, subsection (3) applies in relation to acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

(5) Section 8 applies to proceedings for an offence that is an offence by virtue of subsection (1) or (3) as it would apply to proceedings for the principal offence.

10. A prosecution for an offence under this Part may only be brought by, or with the consent of, the Attorney General. Consent to prosecution

11. In this Part — Interpretation

“material benefit” includes financial, monetary or equivalent benefits, and sexual gratification;

“State” means any country or territory (including the Island).

PART 3

MISCELLANEOUS AMENDMENTS

12. The International Criminal Court Act 2003 is amended in accordance with sections 13 to 16. International Criminal Court Act 2003 amended

[c.9]

13. In section 47 (trial and punishment of main offences) at the end add — Section 47 amended

“(5) Subsections (3) and (4) are subject to section 50B (restriction of penalties in relation to retrospective application of certain offences).”.

14. After section 50 insert — Sections 50A and 50B inserted: further provision about genocide, crimes against humanity and war crimes

50A. (1) Section 45 applies to acts committed on or after 1 January 1991.

“Retrospective application of certain offences

P2001/17/65A

(2) But it does not apply to a crime against humanity, or a war crime within article 8(2)(b) or (e) committed by a person before 1 April 2004 unless, at

the time the act constituting that crime was committed, the act amounted in the circumstances to a criminal offence under international law.

(3) Section 46 applies to conduct in which a person engaged on or after 1 January 1991, and in subsections (2) and (3) of that section references to an offence include an act or conduct which would not constitute an offence under the law of the Island but for this section.

(4) Any enactment or rule of law relating to an offence ancillary to a relevant Part 5 offence —

- (a) applies to conduct in which a person engaged on or after 1 January 1991, and
- (b) applies even if the act or conduct constituting the relevant Part 5 offence would not constitute such an offence but for this section.

(5) But section 46 and any enactment or rule of law relating to an offence ancillary to a relevant Part 5 offence do not apply to —

- (a) conduct in which the person engaged before 1 April 2004, or
- (b) conduct in which the person was engaged on or after that date which was ancillary to an act or conduct which —
 - (i) was committed or engaged in before that date, and
 - (ii) would not constitute a relevant Part 5 offence, or fall within section 46(2), but for this section,

unless, at the time that the person engaged in the conduct it amounted in the circumstances to a criminal offence under international law.

(6) Section 50, so far as it has effect in relation to relevant Part 5 offences —

- (a) applies to failures to exercise control of the kind mentioned in section 50(2) or (3) which occurred on or after 1 January 1991, and

- (b) applies even if the act or conduct constituting the relevant Part 5 offence would not constitute such an offence but for this section.

(7) But section 50, so far as it has effect in relation to relevant Part 5 offences, does not apply to a failure to exercise control of the kind mentioned in section 50(2) or (3) that occurred before 1 April 2004 unless, at the time the failure occurred, it amounted in the circumstances to a criminal offence under international law.

(8) In this section “relevant Part 5 offence” means an offence under section 45 or 46 or an offence ancillary to such an offence.

(9) Section 44(8) applies for the purposes of subsection (2) above as it applies for the purposes of section 44.

Modification of penalties: provisions supplemental to section 50A
50B. (1) In the case of a pre-existing offence committed before 1 April 2004, the reference in section 47(4) to “30 years” is to be read as a reference to “14 years”.

P2001/17/65B
 (2) In the case of an offence falling within section 53(2)(d) that is ancillary to a pre-existing offence committed before 1 April 2004, nothing in section 47(3) and (4) disappplies the penalties provided for in sections 7 and 8 of the Criminal Law Act 1981.
 [c.20]

(3) In this section “pre-existing offence” means —

- (a) an offence under section 45 on account of an act constituting genocide, if at the time that the act was committed it also amounted to an offence by virtue of section 1 of the Genocide (Isle of Man) Act 1969;

[see c. 9 2003 s.58]

[c.52]
 [SI1970/1677]
 [SI1999/1743]

(b) an offence under section 45 on account of an act constituting a war crime, if at the time that the act was committed it also amounted to an offence under section 1 of the Geneva Conventions Act 1957(of Parliament) (grave breaches of the Conventions) as that Act had effect in the Island by virtue of the Geneva Conventions Act (Isle of Man) Order 1970 and the Geneva Conventions Act (Isle of Man) Order 1999;

- (c) an offence of a kind mentioned in section 53(2)(a) to (c) which is ancillary to an offence under paragraph (a) or (b) above.”

Section 53A
inserted:
supplemental
provisions
about Manx
residents

P2009/25/
70(4)

15. After section 53 (interpretation for the purposes of Part 5) insert —

“Supplemental
provisions
about Manx
residents

53A. (1) To the extent that it would not otherwise be the case, the following individuals are to be treated for the purposes of this Part as being Manx residents —

P2001/17/
67A

- (a) an individual who has indefinite leave to remain in the Island;
- (b) any other individual who has made an application for such leave (whether or not it has been determined) and who is in the Island;
- (c) an individual who has leave to enter or remain in the Island for the purposes of work or study and who is in the Island;
- (d) an individual who has made an asylum claim, or a human rights claim, which has been granted;
- (e) any other individual who has made an asylum claim or human rights claim (whether or not the claim has been determined) and who is in the Island;
- (f) an individual named in an application for indefinite leave to remain, an asylum claim or a human rights claim as a dependant of the individual making the application or claim if —
 - (i) the application or claim has been granted, or
 - (ii) the named individual is in the Island (whether or not the application or claim has been determined);
- (g) an individual who would be liable to removal or deportation from the Island but cannot be removed or deported because of section 6 of the Human Rights Act 2001 or for practical reasons;
- (h) an individual —
 - (i) in relation to whom a decision has been made that he or she should be the subject of a deportation order under section 5(1)

[c.1]

[c.77] of the Immigration Act 1971 by virtue of section 3(5)(a) of that Act (deportation conducive to the public good);

(ii) who has appealed against the decision to make the order (whether or not the appeal has been determined), and

(iii) who is in the Island.

(i) an individual who is an illegal entrant within the meaning of section 33(1) of the Immigration Act 1971 or who is liable to removal under section 10 of the Immigration and Asylum Act 1999;

[c.33]

(j) an individual detained in lawful custody in the Island.

(2) When determining for the purposes of this Part whether any other individual is resident in the Island regard is to be had to all relevant considerations including —

(a) the periods during which the individual has been or intends to be in the Island,

(b) the purposes for which the individual is, has been or intends to be in the Island,

(c) whether the individual has family or other connections to the Island and the nature of those connections, and

(d) whether the individual has an interest in residential property located in the Island.

(3) In this section —

“asylum claim” means —

(a) a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention for the claimant to be removed from, or required to leave, the Island, or

(b) a claim that the claimant would face a real risk of serious harm if removed from the Island;

[c.1] “Convention rights” has the meaning given by section 1 of the Human Rights Act 2001;

“detained in lawful custody” means —

- (a) detained in pursuance of a sentence of custody;
- (b) remanded in or committed to custody by an order of a court;
- [c.31] (c) detained pursuant to an order under section 2 of the Colonial Prisoners Removal Act 1884 (of Parliament);
- [c.47] [SI2001/3936] (d) detained pursuant to a warrant under section 1 or 4A of the Repatriation of Prisoners Act 1984 (of Parliament) as that Act applies in the Island by virtue of the Repatriation of Prisoners Act 1984 (Isle of Man) Order 2001;
- [c.3] (e) detained under Part 3 of the Mental Health Act 1998 or by virtue of an order under section 54(1)(a) or 54A of the Criminal Jurisdiction Act 1993 (orders relating to mentally disordered persons, etc);
- [c.9]

“human rights claim” means a claim that to remove the claimant from, or to require the claimant to leave, the Island would be unlawful under section 6 of the Human Rights Act 2001 (public authority not to act contrary to Convention) as being incompatible with the person’s Convention rights;

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention;

[OJ2004L304 p.2 of 30.9.2004] “serious harm” has the meaning given by article 15 of Council Directive 2004/83/EC of the European Community on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;

and a reference to having leave to enter or remain in the Island is to be construed in accordance with the Immigration Act 1971.

(4) Reference in this section to the Immigration Act 1971 or to the Immigration and Asylum Act 1999 are references to those Acts of Parliament as they apply in the Island by virtue of the Immigration (Isle of Man) Order 2008. [c.33] [SI2008/680]

(5) This section applies in relation to any offence under this Part (whether committed before or after the coming into force of this section).”.

16. (1) Paragraph 1 of Schedule 1 (legal capacity, privileges and immunities of the International Criminal Court) is amended as follows. Schedule 1, paragraph 1 amended

P2005/20/6

(2) In sub-paragraph (2) —

(a) at the end of paragraph (b) add “and members of their families who form part of their households,”;

(b) at the end of paragraph (c) omit “and”;

(c) at the end of paragraph (d) add “and”;

(d) after paragraph (d) insert —

“(e) persons attending meetings of the Assembly (including persons attending such meetings as observers and persons invited to such meetings),”.

(3) After sub-paragraph (2) insert —

“(3) In sub-paragraph (2)(e) “the Assembly” means the Assembly of States Parties to the ICC Statute (and includes the subsidiary organs of that Assembly).”.

17. (1) The Telecommunications Act 1984 is amended in accordance with subsections (2) to (5). Telecommunications Act 1984 amended

[c.11]

(2) In section 7(1) (public telecommunications systems) for “to which section 6 applies” substitute “under section 5”.

(3) Renumber the existing text of section 44 (Tynwald approval of orders) as subsection (1) of that section.

(4) In section 44(1) (as renumbered by subsection (3) above) after “section” insert “7(1),”.

(5) In section 44 after subsection (1) insert —

“(2) An order under section 7(1) shall be laid before Tynwald as soon as may be after it is made and, unless it is approved by Tynwald at the sitting at which it is laid or the next following sitting it shall cease to have effect, but without prejudice to anything previously done under it or to the making of a new order.”.

(6) Any order in operation under section 7 of the Telecommunications Act 1984 as it stood immediately before the coming into operation of this section shall continue in operation as if it had been made under that Act as amended by this section.

Proceeds of
Crime Act
2008 amended

18. In the Proceeds of Crime Act 2008 —

[c.13]

(a) in section 43 (searches) —

(i) after subsection (1) insert —

“(1A) If a customs officer or constable has reasonable grounds for suspecting that aboard any means of transport there is cash in respect of which the conditions in paragraphs (a) and (b) of subsection (1) are satisfied, the customs officer or constable may search that means of transport for the cash.”;

(ii) at the end add —

“(9) In subsection (1A) “means of transport” means any aircraft, hovercraft, vehicle or vessel and here —

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“aircraft” has the meaning given in the Air Navigation (Isle of Man) Order 2007;

[c.59]

“hovercraft” has the meaning given in the Hovercraft Act 1968 (of Parliament); and

[c.9]

“vehicle” and “vessel” have the same meaning as in the Police Powers and Procedures Act 1998.”;

(b) in section 141(2) (defences in connection with the acquisition, use or possession of criminal property) omit paragraph (c);

(c) in section 142(1) (circumstances in which a person in the regulated sector commits an offence by failing to disclose money laundering) for “(2) to (4)” substitute “(2) to (5)”;

(d) in section 148(4) (permitted disclosures) for “148(3)(b)” substitute “145(3)(b)”.