

ANTI-TERRORISM AND CRIME (AMENDMENT) ACT 2011

Arrangement of Sections

Section

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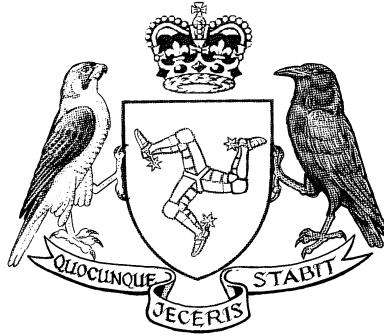
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- Schedule 1 — Schedule 2A inserted
- Schedule 2 — Schedule 4A inserted
- Schedule 3 — Schedule 8A inserted
- Schedule 4 — Schedule 13A inserted
- Schedule 5 — Increase in maximum custodial sentence for summary offences



Isle of Man } Signed in Tynwald: 12th July 2011
to Wit } Received Royal Assent: 12th July 2011
Announced to Tynwald: 12th July 2011

AN ACT

to amend further the Anti-Terrorism and Crime Act 2003; to make minor amendments to other related legislation; 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 Anti-Terrorism and Crime (Amendment) Act 2011. Short title

2. (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. Commencement

(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. The Anti-Terrorism and Crime Act 2003 is amended as follows. Amendment of
Anti-Terrorism
and Crime Act 2003

Section 1
amended

P2008/28/93

4. (1) Section 1 is amended as follows —

(2) In subsection (1)(b) (use or threat designed to influence the government), after “government” insert “or an international organisation”.

(3) Delete “or” at the end of subsection (2)(d).

(4) After subsection 2(e) add —

“(f) constitutes a Convention offence; or

(g) would constitute a Convention offence if done in the Island.”.

(5) After subsection (5) add —

“(6) In this Act “act of terrorism” includes anything constituting an action taken for the purposes of terrorism.

(7) For the purposes of this Act an offence has a terrorist connection if the offence —

(a) is, or takes place in the course of, an act of terrorism; or

(b) is committed for the purposes of terrorism.”.

Section 2
amended

P2006/11/
22(2)

5. After section 2(4) add —

“(5) Where an order made by the Secretary of State under section 3(6) of the UK Act provides for a name to be treated as another name for an organisation, this Act has effect in relation to acts occurring while —

(a) the order is in force;

(b) the organisation continues to be listed in Schedule 2 to the UK Act,

as if the organisation were listed in that Schedule under the other name, as well as under the name specified in the Schedule.

(6) Nothing in subsection (5) prevents any liability from being established in any proceedings by proof that an organisation is the same as an organisation listed in Schedule 2 to the UK Act, even though it is or was operating under a name specified neither in that Schedule nor in an order made by the Secretary of State under section 3(6) of the UK Act.”.

6. For section 9 substitute —

Section 9
substituted

“Facilitating
funding” 9. (1) A person commits an offence if —

(a) he or she facilitates money or other property being made available to another person; and

(b) he or she —

(i) knows;

(ii) has reasonable cause to suspect that; or

(iii) has failed to exercise due diligence or adequately investigate whether,

it will or may be used for the purposes of terrorism.

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

(a) on conviction on information, to custody for a term not exceeding 14 years, to a fine or to both, or

(b) on summary conviction, to custody for a term not exceeding 12 months, to a fine not exceeding £5,000 or to both.

(3) In this section and in section 10, “facilitates” includes failing to take action that results in the activity in question being made easier.”.

7. (1) Section 10 is amended as follows.

Section 10
amended

(2) In subsection (1) delete —

(a) “enters into or becomes concerned in an arrangement which”; and

(b) “by or on behalf of another person”.

(3) After subsection (1)(a) insert —

“(aa)by disguise,

(ab) by conversion,”.

(4) Subsection (2) is repealed.

(5) After subsection (3) add —

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

Section 11
amended

8. In section 11(1)(b), for “comes to his attention in the course of a trade, profession, business or employment” substitute —

P2008/28/
77(2)

“comes to the person’s attention —

- (i) in the course of a trade, profession or business; or
- (ii) in the course of the person’s employment (whether or not in the course of a trade, profession or business)”.

Section 13
amended

9. (1) Section 13 is amended as follows —

(2) In subsection (2) delete “by involvement in a transaction or arrangement relating to money or other property”.

(3) In subsection (3)(a) for “transaction concerned” substitute “circumstances giving rise to the offence”.

(4) In subsection (4)(a) for “transaction or arrangement” substitute “matter”.

(5) Subsection (7) is repealed.

Section 15A
inserted

10. (1) After section 15 insert —

“Meaning of **15A.** (1) In sections 11 to 15 —
“employment”

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

(a) “employment” means any employment (whether paid or unpaid) and includes —

- (i) work under a contract for services or as an office-holder;
- (ii) work experience provided pursuant to a training course or programme or in the course of training for employment; and
- (iii) voluntary work;

(b) “employer” has a corresponding meaning.

(2) So far as subsection (1) extends any provision of sections 11 to 15 involving belief or suspicion to cases to which that provision did not previously apply, that provision applies where the belief or suspicion is held after this section comes into operation even if based on information that came to the person’s attention before this section was in operation.

(3) In any such case sections 11(2), 13(3) and 14(4) (duty to make disclosure as soon as is reasonably practicable) are to be read as requiring the person to act as soon as is reasonably practicable after this section comes into operation.”.

11. For section 16 substitute —

“Forfeiture

Section 16 substituted and sections 16A to 16C inserted

Forfeiture:
terrorist
property
offences
P2008/28/
34

16. (1) The court by or before which a person is convicted of an offence under any of sections 7 to 10 may make a forfeiture order in accordance with this section.

(2) Where a person is convicted of an offence under section 7(1) or (2) or 8, the court may order the forfeiture of any money or other property which, at the time of the offence, the person had in his or her possession or under his or her control and which —

- (a) had been used for the purposes of terrorism;
or
- (b) the person intended should be used, or had reasonable cause to suspect might be used, for those purposes.

(3) Where a person is convicted of an offence under section 7(3), the court may order the forfeiture of any money or other property which, at the time of the offence, the person had in his or her possession or under his or her control and which —

- (a) had been used for the purposes of terrorism;
or
- (b) which, at that time, he or she knew or had reasonable cause to suspect would or might be used for those purposes.

(4) Where a person is convicted of an offence under section 9 or 10 the court may order the forfeiture of any money or other property which, at the time of the offence, the person had in his or her possession or under his or her control and which —

- (a) had been used for the purposes of terrorism; or
- (b) was, at that time, intended by him or her to be used for those purposes.

(5) Where a person is convicted of an offence under section 9 the court may order the forfeiture of the money or other property to which the offence related, and which —

- (a) had been used for the purposes of terrorism; or
- (b) at the time of the offence, the person knew or had reasonable cause to suspect would or might be used for those purposes.

(6) Where a person is convicted of an offence under section 10 the court may order the forfeiture of the money or other property to which the offence related.

(7) Where a person is convicted of an offence under any of sections 7 to 10, the court may order the forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

Forfeiture:
other
terrorism
offences and
offences
with a
terrorist
connection
P2008/28/35

16A. (1) The court by or before which a person is convicted of an offence to which this section applies may order the forfeiture of any money or other property in relation to which the following conditions are met —

- (a) that it was, at the time of the offence, in the possession or control of the person convicted; and
- (b) that —
 - (i) it had been used for the purposes of terrorism;

- (ii) it was intended by that person that it should be used for the purposes of terrorism; or
- (iii) the court believes that it will be used for the purposes of terrorism unless forfeited.

(2) This section applies to —

- (a) any offence under this Act other than an offence under sections 7 to 10; and
- (b) an offence specified in Schedule 2A (offences where terrorist connection to be considered) as to which the court dealing with the offence has determined, in accordance with section 72B, that the offence has a terrorist connection.

Special
forfeiture
orders

16B. (1) This section applies where —

- (a) the court wishes to make a forfeiture order under section 16 or 16A;
- (b) the court is prevented from making the order, or an order to the extent it wishes, due only to the money or other property mentioned in those sections being no longer in the possession or control of the convicted person; and
- (c) the convicted person has money or other property, or an interest in money or other property, that the court wishes to be the subject of a forfeiture order.

(2) Where the conditions in subsection (1) are satisfied, the court may make a special forfeiture order in relation to any money or other property mentioned in subsection (1)(c) up to the equivalent value of the money or other property mentioned in section 16 or 16A.

Forfeiture:
supplementary
provisions
P2008/28/36

16C. (1) Before making an order under section 16, 16A or 16B, a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner or otherwise interested in anything which can be forfeited under that section.

(2) In considering whether to make an order under section 16, 16A or 16B in respect of any property, a court must have regard to —

- (a) the value of the property; and
- (b) the likely financial and other effects on the convicted person of the making of the order (taken together with any other order that the court contemplates making).

(3) When considering whether to make an order under section 16, 16A or 16B, the court may take into account any information that has been placed before it showing that a victim of an offence to which the proceedings relate has instituted, or intends to institute, civil proceedings against the defendant in respect of loss, injury or damage sustained in connection with the offence.

(4) Schedule 2 makes further provision in relation to forfeiture orders under section 16, 16A or 16B.”.

Part IIIA
inserted

12. (1) After Part III insert —

“PART IIIA

NOTIFICATION REQUIREMENTS

Introductory

18A. (1) This Part imposes notification requirements on persons dealt with in respect of certain offences —

Scheme of
this Part
P2008/28/40

- (a) sections 18B to 18D specify the offences to which this Part applies;
- (b) sections 18E to 18G make provision as to the sentences or orders triggering the notification requirements;
- (c) sections 18H to 18L contain the notification requirements; and
- (d) section 18M makes provision as to the period for which the requirements apply.

(2) This Part also provides for —

- (a) orders applying the notification requirements to persons dealt with outside the Island for

corresponding offences (see sections 18Q to 18T); and

- (b) orders imposing restrictions on travel outside the Island on persons subject to the notification requirements (see section 18U and Schedule 4A).

Offences to which this Part applies

Offences to which this Part applies: terrorism offences
P2008/28/41

18B. This Part applies to an offence under this Act.

Offences to which this Part applies: offences having terrorist connection
P2008/28/42

18C. (1) This Part applies to an offence specified in Schedule 2A that a court has determined under section 72B (sentences for offences with a terrorist connection) to have a terrorist connection.

(2) A person to whom the notification requirements apply by virtue of such a determination as is mentioned in subsection (1) may appeal against it to the same court, and subject to the same conditions, as an appeal against sentence.

(3) If the determination is set aside on appeal, the notification requirements are treated as never having applied to that person in respect of the offence.

(4) Where an order is made under section 72C removing an offence from the list in Schedule 2A, a person subject to the notification requirements by reason of that offence being so listed (and who is not otherwise subject to those requirements) ceases to be subject to them when the order comes into operation.

Offences dealt with before commencement
P2008/28/43

18D. (1) This Part applies to a person dealt with for an offence before the commencement of this Part only if —

- (a) the offence is on the commencement of this Part within section 18B (offences to which this Part applies: terrorism offences); and
- (b) immediately before the commencement of this Part the person —
 - (i) is in custody or detained in pursuance of the sentence passed or order made in respect of the offence;

- (ii) would be so in custody or detained but for being unlawfully at large, absent without leave, on temporary leave or leave of absence, or on bail pending an appeal; or
- (iii) is on licence, having served the custodial part of a sentence of custody in respect of the offence.

(2) In relation to a person dealt with for an offence before the commencement of this Part —

- (a) any reference in this Part to a sentence or order under a specified statutory provision includes a sentence or order under any corresponding earlier statutory provision;
- (b) any reference in this Part to a person’s being or having been found to be under a disability and to have done the act charged against him or her in respect of an offence includes a reference to that person’s being or having been found —
 - (i) unfit to be tried for the offence;
 - (ii) insane so that his or her trial for the offence cannot or could not proceed; or
 - (iii) unfit to be tried and to have done the act charged against him or her in respect of the offence.

Persons to whom notification requirements apply

Persons to whom notification requirements apply
P2008/28/44

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

Sentences or orders triggering notification requirements
P2008/28/45

- 18F.** The notification requirements apply to a person who —
- (a) has been convicted of an offence to which this Part applies and sentenced in respect of the offence to —

- (i) custody for life;
- (ii) in the case of a person under the age of 18, to custody for 12 months or more; or
- (iii) detention during Her Majesty's pleasure; or

(b) has been —

- (i) convicted of an offence to which this Part applies carrying a maximum term of custody of 12 months or more;
- (ii) found not guilty by reason of insanity of such an offence; or
- (iii) found to be under a disability and to have done the act charged against them in respect of such an offence,

and made subject in respect of the offence to a hospital order.

Power to amend specified terms or periods of custody or detention

P2008/28/46

18G. (1) The Department may by order amend the provisions of section 18F referring to a specified term or period of custody or detention.

(2) An order reducing a specified term or period has effect only in relation to persons dealt with after the order comes into operation.

(3) Where an order increases a specified term or period —

- (a) it has effect in relation to persons dealt with at any time, whether before or after the order comes into operation; and
- (b) a person who would not have been subject to the notification requirements if the order had been in operation when the offence was dealt with (and who is not otherwise subject to those requirements) ceases to be subject to the requirements when the order comes into operation.

Notification requirements

Initial notification

P2008/28/47

18H. (1) A person to whom the notification requirements apply must notify the following information to the police

within the period of 3 days beginning with the day on which the person is dealt with in respect of the offence in question.

- (2) The information required is —
- (a) the person's date of birth;
 - (b) the person's national insurance number;
 - (c) the person's name on the date on which the person was dealt with in respect of the offence (or, where the person used one or more other names on that date, each of those names);
 - (d) the person's home address on that date;
 - (e) the person's name on the date on which notification is made (or, where the person uses one or more other names on that date, each of those names);
 - (f) the person's home address on the date on which notification is made;
 - (g) the address of any other premises in the Island at which, at the time the notification is made, the person regularly resides or stays;
 - (h) if the person is employed, the name and address of the person's employer;
 - (i) if the person is undergoing further education, the name and address of the educational establishment and the title of the course concerned;
 - (j) any prescribed information.

(3) In determining the period within which notification is to be made under this section, there shall be disregarded any time when the person is —

- (a) remanded in or committed to custody by an order of a court;
- (b) serving a sentence of custody or detention;
- (c) detained in a hospital; or
- (d) detained under the Immigration Acts.

(4) This section does not apply to a person who —

- (a) is subject to the notification requirements in respect of another offence (and does not cease to be so subject before the end of the period within which notification is to be made); and
- (b) has complied with this section in respect of that offence.

(5) In the application of this section to a person dealt with for an offence before the commencement of this Part who, immediately before commencement —

- (a) would be in custody or detained in respect of the offence but for being unlawfully at large, absent without leave, on temporary leave or leave of absence, or on bail pending an appeal; or
- (b) is on licence, having served the custodial part of a sentence of custody in respect of the offence,

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

Notification of changes
P2008/28/48 **18I.** (1) A person to whom the notification requirements apply who uses a name that has not previously been notified to the police must notify the police of that name.

(2) If there is a change of the home address of a person to whom the notification requirements apply, the person must notify the police of the new home address.

(3) A person to whom the notification requirements apply who resides or stays at premises in the Island the address of which has previously not been notified to the police —

- (a) for a period of 7 days; or
- (b) for 2 or more periods, in any period of 12 months, that taken together amount to 7 days,

must notify the police of the address of those premises.

(4) A person to whom the notification requirements apply who is released —

- (a) from custody pursuant to an order of a court;
- (b) from custody or detention pursuant to a sentence of a court;
- (c) from detention in a hospital; or
- (d) from detention under the Immigration Acts,

must notify the police of that fact.

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

(5) A person who is required to notify information within section 18H(2)(j) (prescribed information) must notify the police of the prescribed details of any prescribed changes in that information.

(6) Notification under this section must be made before the end of the period of 3 days beginning with the day on which the event in question occurs.

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

(7) In determining the period within which notification is to be made under this section, there shall be disregarded any time when the person is —

- (a) remanded in or committed to custody by an order of a court;
- (b) serving a sentence of custody or detention;
- (c) detained in a hospital; or
- (d) detained under the Immigration Acts.

(8) References in this section to previous notification are to previous notification by the person under section 18H (initial notification), this section, section 18J (periodic re-notification) or section 18P (notification on return after absence from Island).

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

Periodic re-notification P2008/28/49 **18J.**(1) A person to whom the notification requirements apply must, within the period of one year after last notifying the police in accordance with —

- (a) section 18H (initial notification);
- (b) section 18I (notification of changes);
- (c) this section; or
- (d) section 18P (notification on return after absence from Island),

re-notify to the police the information mentioned in section 18H(2).

(2) Subsection (1) does not apply if the period referred to in that subsection ends at a time when the person is —

- (a) remanded in or committed to custody by an order of a court;
- (b) serving a sentence of custody or detention;
- (c) detained in a hospital; or
- (d) detained under the Immigration Acts.

(3) In that case section 18I(4) and (9) (duty to notify of release and to re-notify other information) apply when the person is released.

Method of notification and related matters P2008/28/50 **18K.** (1) This section applies to notification under —

- (a) section 18H (initial notification);
- (b) section 18I (notification of changes);
- (c) section 18J (periodic re-notification); or
- (d) section 18P (notification on return after absence from Island).

(2) Notification must be made by the person —

- (a) attending at a police station; and
- (b) making an oral notification to a police officer or to a person authorised for the purpose by the officer in charge of the station.

(3) The notification must be acknowledged.

(4) The acknowledgement must be in writing, and in such form as the Department may direct.

(5) The person making the notification must, if requested to do so by the police officer or person to whom the notification is made, allow the officer or person to —

(a) take the person's fingerprints;

(b) photograph any part of the person; or

(c) do both these things,

for the purpose of verifying the person's identity.

Travel
outside
Island

P2008/28/52

18L. (1) The Department may by regulations make provision requiring a person to whom the notification requirements apply who leaves the Island —

(a) to notify the police of the person's departure before the person leaves; and

(b) to notify the police of the person's return if the person subsequently returns to the Island.

(2) Notification of departure must disclose —

(a) the date on which the person intends to leave the Island;

(b) the country (or, if there is more than one, the first country) to which the person will travel;

(c) the person's point of arrival (determined in accordance with the regulations) in that country;

(d) any other information required by the regulations.

(3) Notification of return must disclose such information as is required by the regulations about the person's return to the Island.

(4) Notification under this section must be given in accordance with the regulations.

Period for which notification requirements apply

Period for which notification requirements apply

P2008/28/53

18M. (1) The period for which the notification requirements apply is —

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

(2) The sentences in respect of which a 30 year period applies are —

- (a) custody for life;
- (b) detention during Her Majesty's pleasure.

(3) The period begins with the day on which the person is dealt with for the offence.

(4) If a person who is the subject of a finding within section 18F(b)(iii) (finding of disability) is subsequently tried for the offence, the period resulting from that finding ends —

- (a) if the person is acquitted, at the conclusion of the trial;
- (b) if the person is convicted, when the person is again dealt with in respect of the offence.

(5) For the purposes of determining the length of the period —

- (a) a person who has been sentenced in respect of 2 or more offences to which this Part applies to consecutive terms of custody is treated as if sentenced, in respect of each of the offences, to a term of custody equal to the aggregate of the terms; and
- (b) a person who has been sentenced in respect of 2 or more such offences to concurrent terms of custody (X and Y) that overlap for a period (Z) is treated as if sentenced, in respect of each of the offences, to a term of custody equal to X plus Y minus Z.

(6) In determining whether the period has expired, there shall be disregarded any period when the person was —

- (a) remanded in or committed to custody by an order of a court;
- (b) serving a sentence of custody or detention;
- (c) detained in a hospital; or
- (d) detained under the Immigration Acts.

Offences in relation to notification

Offences
relating to
notification
P2008/28/54

18N. (1) A person commits an offence who —

- (a) fails without reasonable excuse to comply with —

section 18H (initial notification);

section 18I (notification of changes);

section 18J (periodic re-notification);

section 18K(5) (taking of fingerprints or photographs);

any regulations made under section 18L(1) (travel outside Island); or

section 18P (notification on return after absence from Island); or

- (b) notifies to the police in purported compliance with —

section 18H (initial notification);

section 18I (notification of changes);

section 18J (periodic re-notification);

any regulations made under section 18L(1) (travel outside Island); or

section 18P (notification on return after absence from Island),

any information that the person knows to be false.

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

- (a) on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000, or both;
- (b) on conviction on information, to custody for not more than 5 years, a fine, or both.

(3) A person —

- (a) commits an offence under subsection (1)(a) on the day on which the person first fails without reasonable excuse to comply with —
 - section 18H (initial notification);
 - section 18I (notification of changes);
 - section 18J (periodic re-notification);
 - any regulations made under section 18L(1) (travel outside Island); or
 - section 18P (notification on return after absence from Island); and
- (b) continues to commit it throughout any period during which the failure continues.

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

Effect of
absence
from the
Island

180. (1) If a person to whom the notification requirements apply is absent from the Island for any period the following provisions apply.

P2008/28/55

(2) During the period of absence the period for which the notification requirements apply continues to run.

(3) The period of absence does not affect the obligation under section 18H (initial notification).

(4) However, section 18H does not apply if —

- (a) the period of absence begins before the end of the period within which notification must be made under that section; and

(b) the person's absence results from the person's removal from the Island.

(5) Section 18I (notification of changes) —

(a) applies in relation to an event that occurs before the period of absence; but

(b) does not apply in relation to an event that occurs during the period of absence.

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

(6) Section 18I does not apply in relation to an event that occurs before the period of absence if —

(a) the period of absence begins before the end of the period within which notification must be made under that section; and

(b) the person's absence results from the person's removal from the Island.

(7) Section 18J (periodic re-notification) does not apply if the period referred to in subsection (1) of that section ends during the period of absence.

(8) Section 18M(6) (disregard of period of custody etc) applies in relation to the period of absence as if it referred to any period when the person was —

(a) remanded in or committed to custody by an order of a court outside the Island;

(b) serving a sentence of custody, imprisonment or detention imposed by such a court;

(c) detained in a hospital pursuant to an order of such a court that is equivalent to a hospital order; or

(d) subject to a form of detention outside the Island that is equivalent to detention under the Immigration Acts.

(9) References in this section and section 18P to a person's removal from the Island include —

(a) the person's removal from the Island in accordance with the Immigration Acts;

- (b) the person's extradition from the Island;
- (c) the person's transfer from the Island to another country pursuant to a warrant under section 1 of the Repatriation of Prisoners Act 1984 (of Parliament), as that Act has effect in the Island; [c.47]
- (d) the person's exclusion by order under section 1 of the Criminal Justice (Exclusion of Non-Resident Offenders) Act 1998; or [c.10]
- (e) the person's transfer to a prison outside the Island.

Notification on return after absence from Island
P2008/28/56

18P. (1) This section applies if, before the end of the period for which the notification requirements apply, a person to whom the requirements apply returns to the Island after a period of absence and —

- (a) the person was not required to make a notification under section 18H (initial notification);
- (b) there has been a change to any of the information last notified to the police in accordance with —
 - (i) section 18H;
 - (ii) section 18I (notification of changes);
 - (iii) section 18J (periodic re-notification); or
 - (iv) this section; or
- (c) the period referred to in section 18J(1) (period after which re-notification required) ended during the period of absence.

(2) The person must notify or (as the case may be) re-notify to the police the information mentioned in section 18H(2) within the period of 3 days beginning with the day of return.

(3) In determining the period within which notification is to be made under this section, there shall be disregarded any time when the person is —

- (a) remanded in or committed to custody by an order of a court;

- (b) serving a sentence of custody or detention;
 - (c) detained in a hospital; or
 - (d) detained under the Immigration Acts.
- (4) This section does not apply if —
- (a) the person subsequently leaves the Island;
 - (b) the period of absence begins before the end of the period within which notification must be made under this section; and
 - (c) the person’s absence results from the person’s removal from the Island.
- (5) The obligation under this section does not affect any obligation to notify information under section 18L(3) (regulations requiring notification of return).

Supplementary provisions

Application of notification requirements to persons dealt with outside Island
P2008/28/57 **18Q.** (1) The notification requirements of this Part (as adapted by section 18T) apply to persons who have been dealt with outside the Island in respect of a corresponding offence if section 18S is satisfied.

Corresponding offences
P2008/28/
Sch 4
para 2 **18R.** (1) In this Part, a “corresponding offence” means an act that —

- (a) constituted an offence under the law in force in a country outside the Island; and
- (b) corresponds to an offence to which this Part applies.

(2) For this purpose an act punishable under the law in force in a country outside the Island is regarded as constituting an offence under that law however it is described in that law.

(3) An act corresponds to an offence to which this Part applies if —

- (a) it would have constituted an offence to which this Part applies by virtue of section 18B if it had been done in the Island; or

(b) it was, or took place in the course of, an act of terrorism or was done for the purposes of terrorism.

(4) The condition in sub-section (3)(a) or (b) is to be taken to be met unless —

(a) the defendant serves on the applicant, not later than rules of court may provide, a notice —

(i) stating that, on the facts as alleged with respect to the act concerned, the condition is not in the defendant's opinion met;

(ii) showing the defendant's grounds for that opinion; and

(iii) requiring the applicant to prove that the condition is met; or

(b) the court permits the defendant to require the applicant to prove that the condition is met without service of such a notice.

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

P2008/28/
Sch 4 para 3

18S. (1) The following conditions must be satisfied for the notification requirements of this Part to apply in respect of a person.

(2) The first condition is that under the law in force in a country outside the Island —

(a) the person has been convicted of a corresponding offence and has received in respect of the offence a sentence equivalent to a sentence mentioned in section 18F(a); or

(b) a court exercising jurisdiction under that law has, in respect of a corresponding offence —

(i) convicted the person or made a finding in relation to the person equivalent to a finding mentioned in section 18F(b)(ii) or (iii) (finding of insanity or disability); and

(ii) made the person subject to an order equivalent to a hospital order.

(3) This condition is not met if there was a flagrant denial of the person's right to a fair trial.

- (4) The second condition is that —
- (a) the sentence was imposed or order made after the commencement of this Part; or
 - (b) the sentence was imposed or order made before the commencement of this Part and immediately before that time the person —
 - (i) was in custody or detained in pursuance of the sentence or order;
 - (ii) would have been in custody or detained but for being unlawfully at large or otherwise unlawfully absent, lawfully absent on a temporary basis or on bail pending an appeal; or
 - (iii) had been released on licence, or was subject to an equivalent form of supervision, having served the whole or part of a sentence of custody for the offence.

(5) The third condition is that the period for which the notification requirements would apply in respect of the offence (in accordance with section 18M as modified by section 18T(d)) has not expired.

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

P2008/28/Sch 4, para 8

18T. The provisions of this Part have effect with the following adaptations in relation to proceedings and cases outside the Island where the notification requirements apply —

- (a) in section 18W(1) (references to dealing with an offence) for “being sentenced, or made subject to a hospital order” substitute “being made subject by the court outside the Island to a sentence or order within section 18S(2)(a) or (b)”;
- (b) in section 18W(2) (references to time when person dealt with for an offence) for “by a court of summary jurisdiction or the Court of General Gaol Delivery” substitute “by the court of first instance outside the Island”;
- (c) for the purposes of section 18H (initial notification) the period within which notification is to be made is within 2 days —

- (i) beginning with the day on which the person arrives in the Island; or
- (ii) of the commencement of this Part if the person has been in the Island for more than 2 days;
- (d) in section 18M (period for which notification requirements apply) a reference to a sentence or order of any description is to be read as a reference to an equivalent sentence or order of the court outside the Island.

Travel
restriction
orders
P2008/28/58

18U. Schedule 4A makes provision for travel restriction orders prohibiting persons to whom the notification requirements apply from travelling from the Island —

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

Interpretation
for Part IIIA
P2008/28/60

18V. In this Part —

“country” includes a territory;

“detained in a hospital” means detained in a hospital under Part 3 of the Mental Health Act 1998; [c.3]

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

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

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

“Immigration Acts” means any of the Acts mentioned in section 64(2) of the Immigration, Asylum and Nationality Act 2006, of Parliament (to the extent that those acts have effect in the Island); [c.13]

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

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

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

References to person being “dealt with” for an offence

P2008/28/61

18W. (1) References in this Part to a person’s being dealt with for or in respect of an offence are to his or her being sentenced, or made subject to a hospital order, in respect of the offence.

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

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

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

(3) Where the original decision is varied (on appeal or otherwise), then —

(a) if the result is that the conditions for application of the notification requirements to a person in respect of an offence cease to be met (and paragraph (c) does not apply), the notification requirements are treated as never having applied to that person in respect of that offence;

(b) if the result is that the conditions for application of the notification requirements to a person in respect of an offence are met where they were not previously met (and paragraph (c) does not apply) —

(i) the person is treated as dealt with for the offence when the variation takes place; and

(ii) the notification requirements apply accordingly;

(c) if —

- (i) a conviction of, or finding in relation to, a different offence is substituted; and
- (ii) the conditions for application of the notification requirements were met in respect of the original offence and are also met in respect of the substituted offence,

the person is treated as if he or she had been dealt with for the substituted offence at the time of the original decision;

- (d) if the sentence is varied so as to become one by virtue of which the notification requirements would apply for a different period, the period for which those requirements apply shall be determined as if the sentence as varied had been imposed at the time of the original decision;
- (e) in any other case, the variation is disregarded.

(4) For the purposes of —

- (a) section 18E(a) (persons subject to notification requirements: age when dealt with for offence);
- (b) section 18G(2) (effect of order reducing term or period triggering notification requirements);
- (c) section 18M(4)(b) (period for which notification requirements apply: ending of period resulting from finding of disability etc where person subsequently tried); and
- (d) paragraph 2(3) of Schedule 4A (conditions for making travel restriction order: behaviour since offence dealt with),

a person is treated as dealt with at the time of the original decision and any subsequent variation of the decision is disregarded.

(5) For the purposes of —

- (a) section 18D (application of Part to offences dealt with before commencement); and

- (b) paragraph 2(4) of Schedule 4A (conditions for making travel restriction order where offence dealt with before commencement),

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

Where in such a case subsection (3) applies for the purposes of any provision of this Part, that subsection has effect as if the provisions of this Part had been in force at all material times.

(6) In section 18H(5) (adaptation of initial notification requirements in case of offence dealt with before commencement) —

- (a) the reference in the opening words to an offence dealt with before the commencement of this Part is to an offence where the time of the original decision falls before the commencement of this Part; and
- (b) the reference in the closing words to when the offence is dealt with has the same meaning as in subsection (1) of that section.

(7) References in this section to the variation of a decision include any proceedings by which the decision is altered, set aside or quashed, or in which a further decision is come to following the setting aside or quashing of the decision.”.

Section 29 amended

13. In section 29(1)(a) for “any of sections 3, 4, 7 to 10, 42 and 44 to 49” substitute “this Act”.

Section 31A inserted

14. After section 31 insert —

“Search, seizure and forfeiture of terrorist publications
P2006/11/28

31A. (1) If a justice of the peace is satisfied that there are reasonable grounds for suspecting that articles to which this section applies are likely to be found on any premises, the justice of the peace may issue a warrant authorising a constable —

- (a) to enter and search the premises; and
- (b) to seize anything found there which the constable has reason to believe is such an article.

(2) This section applies to an article if —

- (a) it is likely to be the subject of conduct falling within subsection (2)(a) to (e) of section 47B; and
- (b) it would fall for the purposes of that section to be treated, in the context of the conduct to which it is likely to be subject, as a terrorist publication.

(3) A person exercising a power conferred by a warrant under this section may use such force as is reasonable in the circumstances for exercising that power.

(4) An article seized under the authority of a warrant issued under this section —

- (a) may be removed by a constable to such place as the constable thinks fit; and
- (b) must be retained there in the custody of a constable until returned or otherwise disposed of in accordance with this Act.

(5) An article to which this section applies which is seized under the authority of a warrant issued under this section on an application made by or on behalf of the Attorney General —

- (a) shall be liable to forfeiture; and
- (b) if forfeited, may be destroyed or otherwise disposed of by a constable in whatever manner he or she thinks fit.

(6) Schedule 8A (which makes provision about the forfeiture of articles to which this section applies) has effect.

(7) In this section “forfeited” means treated or condemned as forfeited under Schedule 8A.”.

15. (1) After section 32 (but before the cross-heading “power to stop and search”) insert — Sections 32A to 32I inserted

“Power to remove documents for examination

Application of power **32A.** (1) This section applies to a search under any of the following provisions —

- (a) section 31A (search for terrorist publications);
- (b) section 32(1) (search of suspected terrorist);
- (c) section 32(2) (search of person arrested under section 30 on suspicion of being a terrorist);
- (d) paragraph 1, 3, 10 or 14 of Schedule 5 (terrorist investigations).

(2) A constable who carries out a search to which this section applies may, for the purpose of ascertaining whether a document is one that may be seized, remove the document to another place for examination and retain it there until the examination is completed.

(3) Where a constable carrying out a search to which this section applies has power to remove a document by virtue of this section, and the document —

- (a) consists of information that is stored in electronic form; and
- (b) is accessible from the premises being searched,

the constable may require the document to be produced in a form in which it can be taken away, and in which it is visible and legible or from which it can readily be produced in a visible and legible form.

(4) A constable has the same powers of seizure in relation to a document removed under this section as the constable would have if it had not been removed (and if anything discovered on examination after removal had been discovered without it having been removed).

Offence of obstruction
P2008/28/2

32B. A person who wilfully obstructs a constable in the exercise of the power conferred by section 32A commits an offence and is liable, on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000, or both.

Items subject to legal privilege
P2008/28/3

32C. (1) Section 32A does not authorise a constable to remove a document if the constable has reasonable cause to believe —

- (a) it is an item subject to legal privilege; or

- (b) it has an item subject to legal privilege comprised in it.

(2) Subsection (1)(b) does not prevent the removal of a document if it is not reasonably practicable for the item subject to legal privilege to be separated from the rest of the document without prejudicing any use of the rest of the document that would be lawful if it were subsequently seized.

(3) If, after a document has been removed under section 32A, it is discovered that —

- (a) it is an item subject to legal privilege; or
- (b) it has an item subject to legal privilege comprised in it,

the document must be returned forthwith.

(4) Subsection (3)(b) does not require the return of a document if it is not reasonably practicable for the item subject to legal privilege to be separated from the rest of the document without prejudicing any use of the rest of the document that would be lawful if it were subsequently seized.

(5) Where an item subject to legal privilege is removed under subsection (2) or retained under subsection (4), it must not be examined or put to any other use except to the extent necessary for facilitating the examination of the rest of the document.

(6) For the purposes of this section “item subject to legal privilege” has the same meaning as in section 13 of the Police Powers and Procedures Act 1998. [c.9]

Record of
removal
P2008/28/4

32D. (1) A constable who removes a document under section 32A must make a written record of the removal.

(2) The record must be made as soon as is reasonably practicable and in any event within the period of 24 hours beginning with the time when the document was removed.

- (3) The record must —
 - (a) describe the document;
 - (b) specify the object of the removal;

- (c) where the document was found in the course of a search of a person, state the person's name (if known);
- (d) where the document was found in the course of a search of any premises, state the address of the premises where the document was found;
- (e) where the document was found in the course of a search of any premises, state the name (if known) of —
 - (i) any person who, when the record is made, appears to the constable to have been the occupier of the premises when the document was found; and
 - (ii) any person who, when the record is made, appears to the constable to have had custody or control of the document when it was found; and
- (f) state the date and time when the document was removed.

(4) If, in a case where the document was found in the course of a search of a person, the constable does not know the person's name, the record must include a description of the person.

(5) If, in a case where the document was found in the course of a search of any premises, the constable does not know the name of a person mentioned in subsection (3)(e) but is able to provide a description of that person, the record must include such a description.

(6) The record must identify the constable by reference to the constable's police number.

(7) The following persons are entitled, on a request made to the constable, to a copy of the record made under this section —

- (a) where the document was found in the course of a search of a person, that person; and
- (b) where the document was found in the course of a search of any premises —
 - (i) the occupier of the premises when it was found; and

- (ii) any person who had custody or control of the document when it was found.

(8) The constable must provide the copy within a reasonable time from the making of the request.

(9) If the document is found in the course of a search under a warrant, the constable must make an endorsement on the warrant stating that the document has been removed under section 32A.

(10) In the application of this section in relation to the search of a vehicle, the reference to the address of the premises is to the location of the vehicle together with its registration number (if any).

Retention of documents
P2008/28/5 **32E.** (1) A document may not be retained by virtue of section 32A for more than 48 hours without further authorisation.

(2) A constable of at least the rank of chief inspector may authorise the retention of the document for a further period or periods if satisfied that —

- (a) the examination of the document is being carried out expeditiously; and
- (b) it is necessary to continue the examination for the purpose of ascertaining whether the document is one that may be seized.

(3) This does not permit the retention of a document after the end of the period of 96 hours beginning with the time when it was removed for examination.

Access to documents
P2008/28/6 **32F.** (1) Where —

- (a) a document is retained by virtue of section 32E; and
- (b) a request for access to the document is made to the officer in charge of the investigation by a person within subsection (3),

the officer must grant that person access to the document, under the supervision of a constable, subject to subsection (4).

(2) Where —

- (a) a document is retained by virtue of section 32E; and
- (b) a request for a copy of the document is made to the officer in charge of the investigation by a person within subsection (3),

that person must be provided with a copy of the document within a reasonable time from the making of the request, subject to subsection (4).

(3) The persons entitled to make a request under subsection (1) or (2) are —

- (a) where the document was found in the course of a search of a person, that person;
- (b) where the document was found in the course of a search of any premises —
 - (i) the occupier of the premises when it was found; and
 - (ii) any person who had custody or control of the document when it was found; and
- (c) a person acting on behalf of a person within paragraph (a) or (b).

(4) The officer in charge of the investigation may refuse access to the document, or (as the case may be) refuse to provide a copy of it, if the officer has reasonable grounds for believing that to do so —

- (a) would prejudice any investigation for the purposes of which —
 - (i) the original search was carried out; or
 - (ii) the document was removed or is being retained;
- (b) would prejudice the investigation of any offence;
- (c) would prejudice any criminal proceedings that may be brought as the result of an investigation within paragraph (a) or (b); or

(d) would facilitate the commission of an offence.

(5) In this section —

“officer in charge of the investigation” means the officer in charge of the investigation for the purposes of which the document is being retained; and

“original search” means the search in the course of which the document was removed.

Photographing
and copying
of documents
P2008/28/7

32G. (1) Where a document is removed under section 32A it must not be photographed or copied, except that —

(a) a document may be copied for the purpose of providing a copy in response to a request under section 32F(2); and

(b) a document consisting of information stored in electronic form may be copied for the purpose of producing it in a visible and legible form.

(2) Where the original document is returned, any copy under subsection (1)(b) must —

(a) in the case of a copy in electronic form, be destroyed or made inaccessible as soon as is reasonably practicable; and

(b) in any other case, be returned at the same time as the original document is returned.

(3) The following are entitled, on a request made to the Chief Constable, to a certificate that subsection (2) has been complied with —

(a) where the document was found in the course of a search of a person, that person;

(b) where the document was found in the course of a search of any premises —

(i) the occupier of the premises when it was found; and

(ii) any person who had custody or control of the document when it was found.

(4) The certificate must be issued by the Chief Constable, or a person authorised by or on behalf of the Chief Constable, not later than the end of the period of 3 months beginning with the day on which the request is made.

Return of documents
P2008/28/8

32H. (1) Where a document removed under section 32A is required to be returned, it must be returned —

- (a) where the document was found in the course of a search of a person, to that person;
- (b) where the document was found in the course of a search of any premises, to the occupier of the premises when it was found.

(2) Subsection (1) does not apply where a person who is required to return the document is satisfied that another person has a better right to it; and in such a case it must be returned —

- (a) to that other person; or
- (b) to whoever appears to the person required to return the document to have the best right to it.

(3) Where different persons claim to be entitled to the return of the document, it may be retained for as long as is reasonably necessary for the determination of the person to whom it must be returned.

(4) This section also applies in relation to a copy of a document that is required to be returned at the same time as the original; and in such a case references to the document in paragraphs (a) and (b) of subsection (1) are to the original.

Power to remove documents: supplementary provisions
P2008/28/9

32I. (1) In sections 32A to 32H “document” includes any record and, in particular, includes information stored in electronic form.

(2) In the application of those sections in relation to the search of a vehicle references to the occupier of the premises are to the person in charge of the vehicle.”.

“PART VA

INTERVIEWING OF TERRORIST SUSPECTS

Post-charge questioning
P2008/28/22

41A. (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.

[c.9]

Recording of interviews
P2008/28/25 **41B.** (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.

Issue and
revision of
code of
practice

P2008/28/26

41C. (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.”.

17. In section 42, subsections (8) to (10) (forfeiture of weapons) are repealed. Section 42 amended

P2008/28/Sch 3,
para (2)

18. (1) In section 45(4)(a) (penalty for offence of possession for terrorist purposes) for “10 years” substitute “15 years”. Section 45 amended

P2006/11/13

19. In section 46, subsections (5) to (7) (forfeiture of record etc) are repealed. Section 46 amended

P2008/28/Sch 3,
para 3

20. After section 46 (but before the cross-heading “inciting terrorism overseas”) insert — Sections 46A to 46D inserted

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

P2000/11/58A

46A. (1) A person commits an offence if he or she —

- (a) elicits or attempts to elicit information about an individual who is or has been —
 - (i) a member of Her Majesty’s forces;
 - (ii) a member of any of the British intelligence services; or
 - (iii) a constable,

which is of a kind likely to be useful to a person committing or preparing an act of terrorism; or

- (b) publishes or communicates any such information.

(2) It is a defence for a person charged with an offence under this section to prove that he or she had a reasonable excuse for his or her action.

(3) A person guilty of an offence under this section is liable —

- (a) on conviction on information, to custody for not more than 10 years, a fine, or both;
- (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000, or both.

Preparation of terrorist acts and terrorist training

Preparation
of terrorist
acts

P2006/11/5

46B. (1) A person commits an offence if, with the intention of —

- (a) committing acts of terrorism; or
- (b) assisting another to commit such acts,

he or she engages in any conduct in preparation for giving effect to his or her intention.

(2) It is irrelevant for the purposes of subsection (1) whether the intention and preparations relate to one or more particular acts of terrorism of a particular description or acts of terrorism generally.

(3) A person who commits an offence under this section is liable, on conviction on information, to custody for life.

Training for terrorism

P2006/11/6

46C. (1) A person commits an offence if —

- (a) he or she provides instruction or training in any of the skills mentioned in subsection (3); and
- (b) at the time of providing the instruction or training, he or she knows that a person receiving it intends to use the skills in which he or she is being instructed or trained —
 - (i) for or in connection with the commission or preparation of acts of terrorism or Convention offences; or
 - (ii) for assisting the commission or preparation by others of such acts or offences.

(2) A person commits an offence if —

- (a) he or she receives instruction or training in any of the skills mentioned in subsection (3); and
- (b) at the time of the instruction or training, he or she intends to use the skills in which he or she is being instructed or trained —
 - (i) for or in connection with the commission or preparation of acts of terrorism or Convention offences; or
 - (ii) for assisting the commission or preparation by others of such acts or offences.

(3) The skills are —

- (a) the making, handling or use of a noxious substance, or of substances of a description of such substances;
- (b) the use of any method or technique for doing anything else that is capable of being done for the purposes of terrorism, in connection

with the commission or preparation of an act of terrorism or Convention offence or in connection with assisting the commission or preparation by another of such an act or offence; and

- (c) the design or adaptation for the purposes of terrorism, or in connection with the commission or preparation of an act of terrorism or Convention offence, of any method or technique for doing anything.

(4) It is irrelevant for the purposes of subsections (1) and (2) —

- (a) whether any instruction or training that is provided is provided to one or more particular persons or generally;
- (b) whether the acts or offences in relation to which a person intends to use skills in which he or she is instructed or trained consist of one or more particular acts of terrorism or Convention offences, acts of terrorism or Convention offences of a particular description or acts of terrorism or Convention offences generally; and
- (c) whether assistance that a person intends to provide to others is intended to be provided to one or more particular persons or to one or more persons whose identities are not yet known.

(5) A person who commits an offence under this section is liable —

- (a) on conviction on indictment, to custody for not more than 10 years, a fine, or both;
- (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000, or both.

(6) In this section —

“noxious substance” means —

- (a) a dangerous substance within the meaning of paragraph 3 of Schedule 13; or

- (b) any other substance which is hazardous or noxious or which may be or become hazardous or noxious only in certain circumstances;

“substance” includes any natural or artificial substance (whatever its origin or method of production and whether in solid or liquid form or in the form of a gas or vapour) and any mixture of substances.

Attendance
at a place
used for
terrorism
training

P2006/11/8

46D. (1) A person commits an offence if —

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

(2) The requirements of this subsection are satisfied in relation to a person if —

- (a) he or she knows or believes that instruction or training is being provided there wholly or partly for purposes connected with the commission or preparation of acts of terrorism or Convention offences; or
- (b) a person attending at that place throughout the period of the person’s attendance could not reasonably have failed to understand that instruction or training was being provided there wholly or partly for such purposes.

(3) It is immaterial for the purposes of this section —

- (a) whether the person concerned receives the instruction or training personally; and
- (b) whether the instruction or training is provided for purposes connected with one or more

particular acts of terrorism or Convention offences, acts of terrorism or Convention offences of a particular description or acts of terrorism or Convention offences generally.

(4) A person guilty of an offence under this section shall be liable —

- (a) on conviction on information, to custody for not more than 10 years, a fine, or both;
- (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000, or both.

(5) References in this section to instruction or training being provided include references to its being made available.”.

Sections 47A to 47D inserted

21. After section 47 (but before the cross-heading “terrorist bombing and finance offences”) insert —

P2006/11/1-4

“Incitement etc of terrorism

Publishing statements in connection with terrorism

47A. (1) A person commits an offence if the person publishes or causes to be published a statement to the public —

- (a) with the intent to incite the commission of acts of terrorism or Convention offences; and
- (b) that increases the risk of one or more such offences being committed, whether or not the statement directly advocates the commission of such an offence.

(2) Before instituting any proceedings under this section the Attorney General must certify that, in his or her opinion, the prosecution is —

- (a) in the public interest; and
- (b) proportionate to the harm or risk of harm caused by the action giving rise to the alleged offence.

(3) In proceedings for an offence under this section it is a defence for the person to show —

- (a) where it is not proved that the person intended the statement directly or indirectly to

encourage or otherwise induce the commission, preparation or instigation of acts of terrorism or Convention offences —

- (i) that the statement neither expressed his or her views nor had his or her endorsement (whether by virtue of section 47C or otherwise); and
- (ii) that it was clear, in all the circumstances of the statement's publication, that it did not express his or her views and (apart from the possibility of the person having been given and failed to comply with a notice under subsection (3) of that section) did not have his or her endorsement; or

(b) in any case that the statement is a proportionate exercise of the right to freedom of expression in a democratic society.

(4) A person guilty of an offence under this section is liable —

- (a) on conviction on indictment, to custody for not more than 7 years, a fine, or both;
- (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000, or both.

Dissemination
of terrorist
publications
P2006/11/2

47B. (1) A person commits an offence if the person engages in conduct falling within subsection (2) and, at the time of doing so, intends to incite the commission, preparation or instigation of acts of terrorism or the provision of assistance in the commission or preparation of such acts.

(2) For the purposes of this section a person engages in conduct falling within this subsection if he or she —

- (a) distributes or circulates a terrorism publication;
- (b) gives, sells or lends such a publication;
- (c) offers such a publication for sale or loan;
- (d) provides a service to others that enables them to obtain, read, listen to or look at such a

publication, or to acquire it by means of a gift, sale or loan;

- (e) transmits the contents of such a publication electronically; or
- (f) has such a publication in his or her possession with a view to its becoming the subject of conduct falling within any of paragraphs (a) to (e).

(3) For the purposes of this section a publication is a terrorism publication, in relation to conduct falling within subsection (2), if matter contained in it is likely to be understood, by some or all of the persons to whom it is or may become available as a consequence of that conduct, as incitement of the commission, preparation or instigation of acts of terrorism.

(4) For the purposes of this section the question whether a publication is a terrorist publication in relation to particular conduct must be determined —

- (a) as at the time of that conduct; and
- (b) having regard both to the contents of the publication as a whole and to the circumstances in which that conduct occurs.

(5) In subsection (1) references to the effect of a person's conduct in relation to a terrorist publication include references to an effect of the publication on one or more persons to whom it is or may become available as a consequence of that conduct.

(6) It is irrelevant for the purposes of this section whether anything mentioned in subsections (1) to (3) is in relation to the commission, preparation or instigation of one or more particular acts of terrorism, or acts of terrorism of a particular description or of acts of terrorism generally.

(7) For the purposes of this section it is also irrelevant, in relation to matter contained in any article whether any person —

- (a) is in fact induced by that matter to commit, prepare or instigate acts of terrorism; or
- (b) in fact makes use of it in the commission or preparation of such acts.

(8) In proceedings for an offence under this section against a person in respect of conduct to which subsection (9) applies, it is a defence for the person to show —

- (a) that the matter by reference to which the publication in question was a terrorist publication neither expressed his or her views nor had his or her endorsement (whether by virtue of section 47C or otherwise);
- (b) that it was clear, in all the circumstances of the conduct, that that matter did not express his or her views and (apart from the possibility of his or her having been given and failed to comply with a notice under subsection (3) of that section) did not have his or her endorsement; or
- (c) that the statement is a proportionate exercise of the right to freedom of expression in a democratic society.

(9) This subsection applies to the conduct of a person to the extent that —

- (a) the publication to which his or her conduct related contained matter by reference to which it was a terrorist publication by virtue of subsection (3); and
- (b) the person is not proved to have engaged in that conduct with the intention specified in subsection (1).

(10) A person guilty of an offence under this section is liable —

- (a) on conviction on information, to custody for not more than 7 years, a fine, or both;
- (b) on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000, or both.

(11) In this section —

“lend” includes let on hire;

“publication” means an article or record of any description that contains any of the following, or any combination of them —

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

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

47C. (1) This section applies for the purposes of sections 47A and 47B in relation to cases where —

P2006/11/3

- (a) a statement is published or caused to be published in the course of, or in connection with, the provision or use of a service provided electronically; or
- (b) conduct falling within section 47B(2) was in the course of, or in connection with, the provision or use of such a service.

(2) The cases in which the statement, or the article or record to which the conduct relates, is to be regarded as having the endorsement of a person (the “relevant person”) at any time include a case in which —

- (a) a constable has given him or her a notice under subsection (3);
- (b) that time falls more than 2 working days after the day on which the notice was given; and
- (c) the relevant person has failed, without reasonable excuse, to comply with the notice.

(3) A notice under this subsection is a notice which —

- (a) declares that, in the opinion of the constable giving it, the statement or the article or record is unlawfully terrorism-related;
- (b) requires the relevant person to secure that the statement or the article or record, so far as it is so related, is not available to the public or is modified so as no longer to be so related;
- (c) warns the relevant person that a failure to comply with the notice within 2 working days will result in the statement, or the article or record, being regarded as having his or her endorsement; and
- (d) explains how, under subsection (4), he or she may become liable by virtue of the notice if

the statement, or the article or record, becomes available to the public after he or she has complied with the notice.

(4) Where —

- (a) a notice under subsection (3) has been given to the relevant person in respect of a statement, or an article or record, and the relevant person has complied with it; but
- (b) the relevant person subsequently publishes or causes to be published a statement which is, or is for all practical purposes, the same or to the same effect as the statement to which the notice related, or to matter contained in the article or record to which it related, (a “repeat statement”),

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

(5) In proceedings against a person for an offence under section 47A or 47B the requirements of subsection (2)(a) to (c) are not, in his or her case, to be regarded as satisfied in relation to any time by virtue of subsection (4) if the person shows that he or she —

- (a) has, before that time, taken every step he or she reasonably could to prevent a repeat statement from becoming available to the public and to ascertain whether it does; and
- (b) was, at that time, a person to whom subsection (6) applied.

(6) This subsection applies to a person at any time when he or she —

- (a) is not aware of the publication of the repeat statement; or
- (b) having become aware of its publication, has taken every step that he or she reasonably could to secure that it either ceased to be available to the public or was modified as mentioned in subsection (3)(b).

(7) For the purposes of this section a statement or an article or record is unlawfully terrorism-related if

it constitutes, or if matter contained in the article or record constitutes —

- (a) something that is likely to be understood, by any one or more of the persons to whom it has or may become available, as incitement of the commission, preparation or instigation of acts of terrorism or Convention offences; or
- (b) information which —
 - (i) is likely to be useful to any one or more of those persons in the commission or preparation of such acts; and
 - (ii) is in a form or context in which it is likely to be understood by any one or more of those persons as being wholly or mainly for the purpose of being so useful.

(8) In this section “working day” means any day other than —

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

[c.5]

Giving of notices under section 47C **47D.** (1) Except in a case to which any of subsections (2) to (4) applies, a notice under section 47C(3) may be given to a person only —

P2008/28/4

- (a) by delivering it to him or her in person; or
- (b) by sending it to him or her, by means of a postal service providing for delivery to be recorded, at his or her last known address.

(2) Such a notice may be given to a body corporate only —

- (a) by delivering it to the secretary of that body in person; or
- (b) by sending it to the appropriate person, by means of a postal service providing for delivery to be recorded, at the address of the registered or principal office of the body.

(3) Such a notice may be given to a firm only —

- (a) by delivering it to a partner of the firm in person;
- (b) by so delivering it to a person having the control or management of the partnership business; or
- (c) by sending it to the appropriate person, by means of a postal service providing for delivery to be recorded, at the address of the principal office of the partnership.

(4) Such a notice may be given to an unincorporated body or association only —

- (a) by delivering it to a member of its governing body in person; or
- (b) by sending it to the appropriate person, by means of a postal service providing for delivery to be recorded, at the address of the principal office of the body or association.

(5) In the case of —

- (a) a company registered outside the Island;
- (b) a firm carrying on business outside the Island; or
- (c) an unincorporated body or association with offices outside the Island,

the references in this section to its principal office include references to its principal office within the Island (if any).

(6) In this section “the appropriate person” means —

- (a) in the case of a body corporate, the body itself or its secretary;
- (b) in the case of a firm, the firm itself or a partner of the firm or a person having the control or management of the partnership business; and
- (c) in the case of an unincorporated body or association, the body or association itself or a member of its governing body.

(7) For the purposes of section 47C the time at which a notice under subsection (3) of that section is to be regarded as given is —

- (a) where it is delivered to a person, the time at which it is so delivered; and
- (b) where it is sent by a postal service providing for delivery to be recorded, the time recorded as the time of its delivery.

(8) In this section “secretary”, in relation to a body corporate, means the secretary or other equivalent officer of the body.”.

Section 49
amended
P2006/11/17

22. (1) Section 49 is amended as follows.

(2) In subsection (1)(b) for “any of sections 7 to 10” substitute “this Act”.

(3) After subsection (2) add —

“(3) Subsection (1) applies irrespective of whether the person is a British citizen or, in the case of a company, a company incorporated in the Island.

(4) In this section “British citizen” means a British citizen within the meaning of the British Nationality Act 1981 (of Parliament).”.

[c.61]

(4) The marginal note is accordingly amended to “Offences committed outside jurisdiction”.

Section 49A
inserted

23. After section 49 (but before the heading to Part VII) insert —

“Interpretation of Part VI **49A.** (1) In this Part —

P2006/11/20 “publish” is to be construed in accordance with subsection (2);

“statement” is to be construed in accordance with subsection (4).

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

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

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

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

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

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

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

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

24. At the end of Part VI (and after the inserted section 49A) insert — Part VIA
inserted

“PART VIA

WEAPONS OF MASS DESTRUCTION

Nuclear weapons

Use etc
of nuclear
weapons
P2001/24/47

- 49B.** (1) A person commits an offence if the person —
- (a) knowingly causes a nuclear weapon explosion;
 - (b) develops or produces, or participates in the development or production of, a nuclear weapon;
 - (c) has a nuclear weapon in his or her possession;
 - (d) participates in the transfer of a nuclear weapon; or
 - (e) engages in military preparations, or in preparations of a military nature, intending to use, or threaten to use, a nuclear weapon.

(2) Subsection (1) has effect subject to the exceptions and defences in sections 49C and 49D.

(3) For the purposes of subsection (1)(b) a person participates in the development or production of a nuclear weapon if he or she does any act which —

- (a) facilitates the development by another of the capability to produce or use a nuclear weapon; or
- (b) facilitates the making by another of a nuclear weapon,

knowing or having reason to believe that his or her act has (or will have) that effect.

(4) For the purposes of subsection (1)(d) a person participates in the transfer of a nuclear weapon if —

- (a) he or she buys or otherwise acquires it or agrees with another to do so;
- (b) he or she sells or otherwise disposes of it or agrees with another to do so; or
- (c) he or she makes arrangements under which another person either acquires or disposes of it or agrees with a third person to do so.

(5) A person guilty of an offence under this section is liable on conviction on information to custody for life.

(6) In this section “nuclear weapon” includes a nuclear explosive device that is not intended for use as a weapon.

Exceptions **49C.** (1) Nothing in section 49B applies —

P2001/24/48

- (a) to an act done in the course of an armed conflict; or
- (b) where subsection (4) applies.

(2) Any question arising in proceedings for an offence under section 49B as to whether anything was done in the course of an armed conflict shall be determined by the Secretary of State.

(3) A certificate purporting to set out any such determination and to be signed by the Secretary of State shall be received in evidence in any such proceedings

and shall be presumed to be so signed unless the contrary is shown.

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

Defences
P2001/24/49 **49D.** (1) In proceedings for an offence under section 49B(1)(c) or (d) relating to an object it is a defence for the accused to show that he or she did not know and had no reason to believe that the object was a nuclear weapon.

(2) But he or she shall be taken to have shown that fact if —

- (a) sufficient evidence is adduced to raise an issue with respect to it; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

(3) In proceedings for such an offence it is also a defence for the accused to show that he or she knew or believed that the object was a nuclear weapon but, as soon as reasonably practicable after he or she first knew or believed that fact, he or she took all reasonable steps to inform the Department or a constable of his or her knowledge or belief.

Assisting
or inducing
certain
weapons-
related
acts outside
Island
P2001/24/50 **49E.** (1) A person who aids, abets, counsels or procures, or incites, a person to do a relevant act outside the Island is guilty of an offence.

(2) For this purpose a relevant act is an act that would constitute an offence under any of the following provisions —

- (a) section 1 of the Biological Weapons Act 1974 [c.6] (offences relating to biological agents and toxins) (of Parliament), as that Act has effect in the Island;
- (b) section 2 of the Chemical Weapons Act 1996 [c.6] (offences relating to chemical weapons) (of Parliament), as that Act has effect in the Island; or

(c) section 49B (use etc of nuclear weapons).

(3) A person accused of an offence under this section in relation to a relevant act which would contravene a provision mentioned in subsection (2) may raise any defence which would be open to a person accused of the corresponding offence ancillary to an offence under that provision.

(4) A person convicted of an offence under this section is liable on conviction on information to custody for life.

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

Powers
of entry

P2001/24/52

49F. (1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting that evidence of the commission of an offence under section 49B or 49E is to be found on any premises, the justice of the peace may issue a warrant authorising an authorised officer to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(2) The powers of a person who enters the premises under the authority of the warrant include power —

- (a) to take with him or her such other persons and such equipment as appear to him or her to be necessary;
- (b) to inspect, seize and retain any substance, equipment or document found on the premises;
- (c) to require any document or other information which is held in electronic form and is accessible from the premises to be produced in a form —
 - (i) in which he or she can read and copy it; or
 - (ii) from which it can readily be produced in a form in which he or she can read and copy it;
- (d) to copy any document which he or she has reasonable cause to believe may be required as

evidence for the purposes of proceedings in respect of an offence under section 49B or 49E.

(3) A constable who enters premises under the authority of a warrant or by virtue of subsection (2)(a) may —

- (a) give such assistance as an authorised officer may request for the purpose of facilitating the exercise of any power under this section; and
- (b) search or cause to be searched any person on the premises who the constable has reasonable cause to believe may have in his or her possession any document or other thing which may be required as evidence for the purposes of proceedings in respect of an offence under section 49B or 49E.

(4) A constable must not search a person of the opposite sex.

(5) If the warrant so provides, the powers conferred by a warrant under this section shall be exercisable only in the presence of a constable.

(6) A person who —

- (a) wilfully obstructs an authorised officer in the exercise of a power conferred by a warrant under this section; or
- (b) fails without reasonable excuse to comply with a reasonable request made by an authorised officer or a constable for the purpose of facilitating the exercise of such a power,

is guilty of an offence.

(7) A person guilty of an offence under subsection (6) is liable —

- (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
- (b) on summary conviction, to a fine not exceeding £5,000.

(8) In this section “authorised officer” means a person appointed by the Department for the purposes of this section.

Customs and excise investigations **49G.** Where a customs officer investigates, or proposes to investigate, any matter with a view to determining —

- P2001/24/53
- (a) whether there are grounds for believing that an offence under section 49B or 49E has been committed; or
 - (b) whether a person should be prosecuted for such an offence,

[c.34] that matter shall be treated as an assigned matter within the meaning of the Customs and Excise Management Act 1986.

False statements etc P2001/24/54 **49H.** (1) A person who knowingly or recklessly makes a false or misleading statement for the purpose of obtaining (or opposing the variation or withdrawal of) authorisation for the purposes of section 49B or 49E is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable —

- (a) on conviction on information, to custody for not more than 2 years, a fine, or both; and
- (b) on summary conviction, to a fine not exceeding £5,000.”.

Sections 50 and 51 substituted and section 51A inserted **25.** For sections 50 and 51 substitute —

“Freezing orders: general **50.** (1) A freezing order is an order which prohibits persons from making funds available to or for the benefit of a person or persons specified in the order.

(2) The order must provide that these are the persons who are prohibited —

- (a) all persons in the Island, and
- (b) all persons elsewhere who are either —
 - (i) ordinarily resident in the Island, or
 - (ii) are bodies incorporated under the law of the Island.

(3) The order may specify the following (and only the following) as the person or persons to whom or for whose benefit funds are not to be made available —

- (a) the person or persons the Treasury reasonably believes to have taken or to be likely to take the action referred to in section 51;
 - (b) any person the Treasury reasonably believes has provided or is likely to provide assistance (directly or indirectly) to that person or any of those persons;
 - (c) such person or persons as the authority making the request under section 51(4) specifies that the freezing order to be made in response to that request shall apply to.
- (4) A person may be specified under subsection (3) by —
- (a) being named in the order, or
 - (b) falling within a description of persons set out in the order.
- (5) The description must be such that a reasonable person would know whether he fell within it.
- (6) Funds means financial assets and benefits of every kind, including (but not limited to) —
- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (b) deposits, balances on accounts, debts and debt obligations;
 - (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;
 - (d) interest, dividends or other income on or value accruing from or generated by assets;
 - (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
 - (f) letters of credit, bills of lading, bills of sale;
 - (g) documents providing evidence of an interest in funds or financial resources;

(h) any other instrument of export finance.

(7) A freezing order may be made in respect of funds regardless of whether they are owned or held by more than one person.

Power to
make final
freezing
orders

51. (1) The Treasury may make a freezing order (to be known in this Part as a “final freezing order”) if —

- (a) both of the conditions in subsections (2) and (3) are satisfied; or
- (b) the condition in subsection (4) is satisfied.

(2) The condition is that the Treasury reasonably believes that —

- (a) action to the detriment of the economy (or part of the economy) of the Island or of any country or territory outside the Island; or
- (b) action constituting a threat to the life or property of a resident of the Island or a resident of a country or territory outside the Island,

has been, or is likely to be, taken by a person or persons.

(3) The condition is that the person (or if more than one, all of them) is —

- (a) the government of a country or territory outside the Island; or
- (b) a resident of the Island or a resident of a country or territory outside the Island.

(4) The condition is that the Treasury —

- (a) has received a request to make a freezing order from an authority outside the Island which appears to the Treasury to have the function of making requests to freeze funds; and
- (b) considers it appropriate in the circumstances to make the order.

Power to
make interim
freezing
orders

51A. (1) The Treasury may make a freezing order (to be known in this Part as an “interim freezing order”) if —

- (a) the Treasury reasonably suspects that —
 - (i) action to the detriment of the economy (or part of the economy) of the Island or of any country or territory outside the Island; or
 - (ii) action constituting a threat to the life or property of a resident of the Island or a resident of a country or territory outside the Island,has been, or is likely to be, taken by a person or persons; and
- (b) the condition set out in section 51(3) is satisfied.

(2) The Treasury may not make more than one interim freezing order concerning the same person in relation to the same, or substantially the same, evidence.”.

26. For section 52(1) substitute —

Section 52
amended

“(1) An interim freezing order ceases to have effect —

- (a) at the end of the period of 30 days starting with the date on which it was made, or
- (b) on the making of a final freezing order concerning the same person,

whichever is the earlier.

(1A) A final freezing order ceases to have effect at the end of a period of 1 year starting with the date on which it was made.”.

27. (1) Section 53 is amended as follows.

Section 53
amended

(2) In subsection (1)(a) for “British Dependent Territories citizen” substitute “British overseas territories citizen”.

(3) At the end of subsection (2)(b) insert —

“; or

- (c) a limited liability company, partnership or other unincorporated association formed under the law of the Island.”.

(4) At the end of subsection (3)(b) insert —

“; or

(c) a limited liability company, partnership or other unincorporated association formed under the law of such a country or territory.”.

(5) Consequently, delete “or” at the end of subsection (2)(a) and (3)(a).

Section 58
amended

28. (1) Section 58 is amended as follows.

P2008/28/Sch
1 para 1

(2) Subsection (3)(e) is repealed.

[c.2]

(3) In subsection (8) for “Data Protection Act 1986” substitute “Data Protection Act 2002”.

(4) Subsection (10) (definition of “intelligence services”) is repealed.

(5) Consequently —

(a) insert “or” at the end of subsection (3)(c);

(b) delete “or” at the subsection (3)(d).

Section 58A
inserted

29. After section 58 insert —

P2008/28/19
& 20

58A. (1) A person may disclose information to any of the British intelligence services for the purposes of the exercise by that service of any of its functions.

(2) A disclosure under this section does not breach —

(a) any obligation of confidence owed by the person making the disclosure; or

(b) any other restriction on the disclosure of information (however imposed).

(3) Nothing in this section authorises a disclosure that —

[c.2]

(a) contravenes the Data Protection Act 2002 ; or

[c.18]

(b) is prohibited by the Interception of Communications Act 1988.”.

30. (1) Section 60 is amended as follows.

Section 60
amended

(2) In subsection (1)(c), after “government” insert “or an international organisation”.

(3) After subsection (2)(d) insert —

“(e) constitutes a Convention offence; or

(f) would constitute a Convention offence if done in the Island.”.

(4) Consequently, delete “or” at the end of subsection (2)(c).

31. After section 62 (but before the heading to Part X) insert —

Part IXA
inserted

“PART IXA

P2006/11/9-11

RADIOACTIVE DEVICES AND MATERIALS
AND NUCLEAR FACILITIES AND SITES

62A. (1) A person commits an offence if the person —

Making and
possession
of devices
or materials

(a) makes or possesses a radioactive device; or

P2006/11/9

(b) possesses radioactive material,

with the intention of using the device or material in the course of or in connection with the commission or preparation of an act of terrorism or for the purposes of terrorism, or of making it available to be so used.

(2) It is irrelevant for the purposes of subsection (1) whether the act of terrorism to which an intention relates is a particular act of terrorism, an act of terrorism of a particular description or an act of terrorism generally.

(3) A person who commits an offence under this section is liable, on conviction on information, to custody for life.

62B. (1) A person commits an offence if he or she uses —

Misuse of
devices or
material and
misuse and
damage of
facilities

(a) a radioactive device, or

P2006/11/10

(b) radioactive material,

in the course of or in connection with the commission of an act of terrorism or for the purposes of terrorism.

(2) A person commits an offence if, in the course of or in connection with the commission of an act of terrorism or for the purposes of terrorism, he or she uses or damages a nuclear facility in a manner which —

- (a) causes a release of radioactive material; or
- (b) creates or increases a risk that such material will be released.

(3) A person guilty of an offence under this section is liable, on conviction on information, to custody for life.

Terrorist threats relating to devices, materials or facilities

P2006/11/11

62C. (1) A person commits an offence if, in the course of or in connection with the commission of an act of terrorism or for the purposes of terrorism —

- (a) the person makes a demand —
 - (i) for the supply to the person or to another of a radioactive device or of radioactive material;
 - (ii) for a nuclear facility to be made available to the person or to another; or
 - (iii) for access to such a facility to be given to the person or to another;
- (b) the person supports the demand with a threat that the person or another will take action if the demand is not met; and
- (c) the circumstances and manner of the threat are such that it is reasonable for the person to whom it is made to assume that there is real risk that the threat will be carried out if the demand is not met.

(2) A person also commits an offence if —

- (a) the person makes a threat falling within subsection (3) in the course of or in connection with the commission of an act of terrorism or for the purposes of terrorism; and
- (b) the circumstances and manner of the threat are such that it is reasonable for the person to whom it is made to assume that there is real

risk that the threat will be carried out, or would be carried out if demands made in association with the threat are not met.

- (3) A threat falls within this subsection if it is —
- (a) a threat to use a radioactive device;
 - (b) a threat to use radioactive material; or
 - (c) a threat to use or damage a nuclear facility in a manner that releases radioactive material or creates or increases a risk that such material will be released.

(4) A person guilty of an offence under this section is liable, on conviction on information, to custody for life.”.

32. (1) Section 69 is amended as follows.

Section 69
amended

(2) After subsection (1) insert —

P2006/11/
22(7)

“(1A) This section also applies where —

- (a) an appeal under section 5 of the UK Act (appeal against refusal of deproscription) has been allowed in respect of a name treated as the name for an organisation;
- (b) an order has been made under section 3(8) of that Act in respect of the name in accordance with an order of the Commission under section 5(4) of that Act;
- (c) a person has been convicted of an offence in respect of the organisation under any of sections 3 to 5, 7 to 11 and 44; and
- (d) the activity to which the charge referred took place on or after the date of the refusal, against which the appeal under section 5 of the UK Act was brought, to provide for a name to cease to be treated as a name for the organisation.”.

(3) In subsection (2), after “(1)(c)” insert “or (1A)(c)”.

(4) In subsection (4)(a), after “(1)(b)” insert “or (1A)(b)”.

Section 70
amended

33. In section 70(1) for “sections 7 to 15” substitute “sections 7 to 16B”.

P2008/28/Sch
3 para 4

Sections 72A
to 72C
inserted

34. After section 72 (but before the heading to Part XI) insert —

“Supplemental
powers of
forfeiture

P2000/11/
120A

72A. (1) A court by or before which a person is convicted of an offence under a provision mentioned in column 1 of the following table may order the forfeiture of any item mentioned in column 2 in relation to that offence.

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

(2) Before making an order under this section, a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner or otherwise interested in anything which can be forfeited under this section.

(3) An order under this section does not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

(4) Where a court makes an order under this section, it may also make such other provision as appears to it to be necessary for giving effect to the forfeiture, including, in particular, provision relating to the retention, handling, disposal or destruction of what is forfeited.

(5) Provision made by virtue of subsection (4) may be varied at any time by the court that made it.

(6) The power of forfeiture under this section is in addition to any power of forfeiture under section 16A or 16B.

Sentencing

Sentences
for offences
with a
terrorist
connection

P2008/28/30

72B. (1) This section applies where a court is considering for the purposes of sentence the seriousness of an offence —

(a) under this Act; or

(b) specified in Schedule 2A (offences where terrorist connection to be considered).

(2) If having regard to the material before it for the purposes of sentencing it appears to the court that the offence has or may have a terrorist connection, the court must determine whether that is the case.

(3) For that purpose the court may hear evidence, and must take account of any representations made by the prosecution and the defence, as in the case of any other matter relevant for the purposes of sentence.

(4) If the court determines that the offence has a terrorist connection, the court —

(a) must treat that fact as an aggravating factor; and

(b) must state in open court that the offence was so aggravated.

(5) In this section “sentence”, in relation to an offence, includes any order made by a court when dealing with a person in respect of the offence.

(6) This section has effect in relation only to offences committed on or after the day it comes into operation.

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

P2008/28/33

72C. (1) The Department may by order amend Schedule 2A (offences where terrorist connection to be considered).

(2) An order adding an offence to that Schedule applies only in relation to offences committed after the order comes into operation.”

Section 75
amended

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

[c.13]

35. (1) In section 75 —

(a) renumber the existing text as subsection (1);

(b) after the definition of “article” insert —

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

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

(c) after the definition of “firearm” insert —

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

(d) after the definition of “immigration officer” insert —

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

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

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

“nuclear facility” means —

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

“nuclear material” means plutonium except that with isotopic concentration exceeding 80% in

plutonium-238; uranium-233; uranium enriched in the isotopes 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;

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

(e) after the definition of “property” insert —

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

(f) after the definition of “public place” insert —

“ “radioactive device” means —

a nuclear weapon or other nuclear explosive device;

a radioactive material dispersal device;

a radiation-emitting device,

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

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

contains nuclides that undergo spontaneous disintegration in a process accompanied by the emission of one or more types of ionising radiation, such as alpha radiation, beta radiation, neutron particles or gamma rays; and

is capable, owing to its radiological or fissile properties, of —

causing serious bodily injury to a person;

causing serious damage to property;

- “Convention offence Section 75(1)”;
- (d) after “Cordoned area” insert —
- “Country (in Part IIIA) Section 18V
- Criminal investigation (in Part VIII) Section 59(1)”;
- (e) after “Department” insert —
- “Detained in a hospital Section 18V
(in Part IIIA)
- Device (in definition of Section 75(1)
“radioactive device”)
- Disabled person’s badge Section 41
(in sections 37 to 40)
- Document Section 32I(1)
(in sections 32A to 32H)
- Driver (in sections 37 to 40) Section 41”;
- (f) after “Dwelling” insert —
- “Employment Section 15A(1)”;
(in sections 11 to 15)
- (g) after “Explosive” insert —
- “Facilitates Section 9(3)”;
(in sections 9 and 10)
- (h) after “Firearm” insert —
- “GCHQ (in the definition Section 75(1)
of “intelligence services”)
- Home address (in Part IIIA) Section 18V
- Hospital order (in Part IIIA) Section 18V”;
- (i) after “Immigration Act” insert —
- “Immigration Acts (in Part IIIA) Section 18V”;
- (j) after “Immigration officer” insert —
- “Information (in Part VIII) Section 59(1)
- Intelligence services Section 75(1)

International organisation	Section 75(1)
Nuclear facility	Section 75(1)
Nuclear material	Section 75(1)
Nuclear reactor	Section 75(1)”;
(k) after “Organisation” insert —	
“Parking (in sections 37 to 40)	Section 41
Passport (in Schedule 4A)	Schedule 4A paragraph 4(5)
Photograph (in Part IIIA)	Section 18V”;
(l) after “Premises” insert —	
“Prescribed (in Part IIIA)	Section 18V”;
(m) after “Proscribed organisation” insert —	
“Public	Section 75(1)
Public authority (in Part VIII)	Section 59(1)”;
(n) after “Public place” insert —	
“Publish (in Part VI)	Section 49A
Radioactive device	Section 75(1)
Radioactive material	Section 75(1)
Record	Section 75(1)
Release (in Part IIIA)	Section 18V”;
(o) after “Road” insert —	
“Statement (in Part VI)	Section 49A”;
(p) after “Terrorist (in Part V) insert —	
“Terrorist connection	Section 1(7)”;
(q) after “Terrorist property insert —	
“Traffic sign (in sections 37 to 40)	Section 41
Transportation device	Section 75(1)”;

(r) after “UK Act” insert —

“Uranium enriched in the isotope 235 or 233 Section 75(1)”.

37. After section 76 insert —

Section
76A inserted

“Liability
of officers
of bodies
corporate
etc

76A. (1) This section does not apply where paragraph 8 of Schedule 6 applies or to an offence under Schedule 13.

(2) If an offence under this Act committed by a body corporate is shown —

(a) to have been committed with the consent or the connivance of an officer of the body corporate; or

(b) to be attributable to any neglect on the part of any such officer,

the officer as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.

(3) If an offence under this Act committed by a partnership is shown —

(a) to have been committed with the consent or the connivance of a partner; or

(b) to be attributable to any neglect on the part of a partner,

the partner as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.

(4) If an offence under this Act committed by an unincorporated association (other than a partnership) is shown —

(a) to have been committed with the consent or the connivance of an officer of the association; or

(b) to be attributable to any neglect on the part of any such officer,

the officer as well as the association is guilty of an offence and liable to be proceeded against and punished accordingly.

(5) If the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(6) In this section —

“officer” includes —

(a) in relation to a body corporate, a director, manager, secretary, chief executive, member of the committee of management and its registered agent;

(b) in relation to an unincorporated association, any officer of the association and any member of its governing body; and

[c.19] (c) in relation to a limited liability company constituted under the Limited Liability Companies Act 1996, the company's manager, the registered agent and its members,

and any person purporting to act in such a capacity;

[VIII p.327] “partner” includes a person holding himself or herself out to be a partner (within the meaning of section 16(1) of the Partnership Act 1909).”.

Section 77 amended **38.** In section 77(3) delete “Deemster or”.

Section 82 amended **39.** (1) In section 82(4) for “1st March 2008” substitute “30 June 2014”.

[SD 33/08] (2) Consequently, the Anti-Terrorism and Crime Act 2003 (Continuation) Order 2008 is revoked.

Schedule 1 amended **40.** In Schedule 1 paragraph 1(g) after “raised under” insert “the Isle of Man Loans Act 1974 or”.

[c.6]

Schedule 2 amended **41.** (1) Schedule 2 (forfeiture orders) is amended as follows.

P2008/28/ Sch 3 para 5 (2) In paragraph 1 —

(a) before the definition of “forfeiture order” insert —

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

(b) in the definition of “forfeiture order” —

(i) after “section 16” insert “,16A or 16B”;

(ii) delete “and”;

(c) after the definition of “forfeited property” insert —

““relevant offence” means —

(a) an offence under this Act;

(b) an offence specified in Schedule 2A (offences where terrorist connection to be considered) as to which the court dealing with the offence has determined, in accordance with section 72B, that the offence has a terrorist connection; or

(c) in relation to a restraint order or a charging order, any offence specified in Schedule 2A; and

“restraint order” means an order made by the High Court under paragraph 5.”.

(3) In paragraph 2(1)(d) for “section 16(7)” substitute “section 16C(1) or such other person or body (including a person or body in a country or territory outside the Island) as the court considers appropriate”.

(4) After paragraph 2(1) insert —

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

(a) victims of terrorist offences;

(b) victims of other crimes;

(c) charitable organisations involved in preventing or detecting crime;

(d) charitable organisations involved in providing support to the victims of crime.”.

(5) In paragraph 4(1)(c) for “section 16(7)” substitute “section 16C(1)”.

(6) In paragraph 5 —

- (a) in sub-paragraphs (1)(a) and (2)(a) for “an offence under any of sections 7 to 10” substitute “a relevant offence”;
- (b) in sub-paragraph (4) for “Deemster” substitute “judge of the High Court”.

(7) In paragraph 6(4)(a) and (b) for “offences under any of sections 7 to 10” substitute “relevant offences”.

(8) In paragraph 8(3) for “an offence under any of sections 7 to 10” substitute “a relevant offence”.

(9) After paragraph 8 insert —

“Charging orders

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

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

(2) A charging order —

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

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

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

(10) At the end of paragraph 9(1) insert “or where a charging order is discharged in accordance with paragraph 8A(3) because no proceedings in respect of relevant offences are instituted within such time as the High Court considers reasonable”.

(11) In paragraph 9(2) —

- (a) in the opening words, for “forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 7 to 10” substitute “forfeiture order, a restraint order or a charging order is made in or in relation to proceedings for a relevant offence”;
- (b) in paragraphs (a), (b) and (c), for “an offence under any of those sections” substitute “a relevant offence”.

(12) In paragraph 10 —

(a) for sub-paragraph (1)(a) substitute —

“(a) a forfeiture order, a restraint order or a charging order is made in or in relation to proceedings for a relevant offence; and”;

(b) in sub-paragraph (3)(a) for “forfeiture order or restraint order” substitute “forfeiture order, restraint order or charging order”.

(13) In paragraph 12, in paragraph (a) of the definition of “a British Islands order” after “section 16” insert “, 16A or 16B”.

(14) In paragraph 14 —

- (a) in sub-paragraph (2)(a) for “designated for the purposes of this paragraph by the order” substitute “outside the British Islands”;
- (b) in sub-paragraphs (3)(b) and (5) for “designated country or territory” substitute “country or territory outside the British Islands”.

(15) Consequently, in the cross-heading immediately before paragraph 14 for “in designated countries” substitute “outside the British Islands”.

(16) In paragraph 15, in paragraph (a) of the definition of “forfeiture order” after “section 16” insert “, 16A or 16B”.

(17) In paragraphs 21(4) and 23(5) for “Companies Acts 1931 to 1993” substitute “Companies Acts 1931 to 2006”.

(18) In paragraph 22(3) —

(a) in the definition of “British Islands or external insolvency practitioner” for “relevant country or territory” substitute “country or territory outside the Island”;

(b) the definition of “relevant country or territory” is repealed.

(19) Consequently, in the cross-heading immediately before paragraph 22 for “in the British Islands and designated countries” substitute “outside the Island”.

Schedule 2A
inserted

42. After Schedule 2 insert Schedule 2A set out in Schedule 1 to this Act.

Schedule 3
amended

43. (1) Schedule 3 (forfeiture of terrorist cash) is amended as follows.

P2008/28/83
& 84

(2) After paragraph 3(1) insert —

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

(a) any Saturday or Sunday;

(b) Christmas Day;

(c) Good Friday;

(d) any day that is a bank holiday under the Bank Holidays Act 1989.”.

[c.5]

(3) In paragraphs 4(1) and 10(2), after “48 hours” insert “(determined in accordance with paragraph 3(1A))”.

(4) For paragraph 7 substitute —

“Appeal against decision in forfeiture proceedings

7. (1) A party to proceedings for an order under paragraph 6 (“a forfeiture order”) who is aggrieved by

a forfeiture order made in the proceedings or by the decision of the court not to make a forfeiture order may appeal to the High Court.

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

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

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

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

Extended time for appealing in certain cases where deproscription order made

7A. (1) This paragraph applies where —

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

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

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

Schedule 4
amended

44. In Schedule 4 —

[c.6]

(a) in paragraph 1(1)(f) after “raised under” insert “the Isle of Man Loans Act 1974 or”;

(b) after paragraph 1(1)(i) insert —

“(j) any person who, in the course of a business, holds or manages any assets belonging to a client.”;

(c) in paragraphs 2(1) and 3(1) for “Deemster” substitute “judge of the High Court”;

(d) for paragraph 7(2)(b) substitute —

“(b) in the case of proceedings under section 16, 16A or 16B where the financial institution has been convicted of an offence to which section 16, 16A or 16B (as appropriate) applies;”.

Schedule 4A
inserted

45. After Schedule 4 insert Schedule 4A set out in Schedule 2 to this Act.

Schedule 5
amended

46. (1) Part 1 of Schedule 5 (terrorist investigations: information) is amended as follows.

P2006/11/26

(2) In paragraph 1(2)(a), for “the premises specified in the warrant” substitute “premises mentioned in sub-paragraph (2A)”.

(3) After paragraph 1(2) insert —

“(2A) The premises referred to in sub-paragraph (2)(a) are —

(a) one or more sets of premises specified in the application (in which case the application is for a “specified premises warrant”); or

(b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).”.

(4) In paragraph 1(5) —

- (a) in paragraph (b), for “premises specified in the application” substitute “premises to which the application relates”;
- (b) the “and” at the end of paragraph (b) is deleted;
- (c) in paragraph (c), at the end add “, and”; and
- (d) after paragraph (c) add —

“(d)in the case of an application for an all premises warrant, that it is not reasonably practicable to specify in the application all the premises which the person so specified occupies or controls and which might need to be searched.”.

(5) In paragraph 2(1), after “an application” insert “for a specific premises warrant”.

- (6) After paragraph 2 insert —

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

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

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

(3) Where a warrant under paragraph 1 is issued by virtue of this paragraph, the powers under paragraph 1(2)(a) and (b) are exercisable only —

- (a) in respect of premises which are not residential premises; and
- (b) within the period of 24 hours beginning with the time when the warrant is issued.

(4) For the purpose of sub-paragraph (3) “residential premises”, in relation to a power under paragraph 1(2)(a) or (b), means any premises which the constable exercising the power has reasonable grounds for believing are used wholly or mainly as a dwelling.”.

(7) In each of the following provisions for “Deemster” substitute “judge of the High Court” —

- (a) paragraph 5(1), (4)(a) and (b) and (5) (in both places where occurring);
- (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);
- (g) paragraph 12(1).

(8) In paragraph 10(2)(a), for “the premises specified in the warrant” substitute “premises mentioned in sub-paragraph (3A)”.

(9) After paragraph 10(3) insert —

“(3A) The premises referred to in sub-paragraph (2)(a) are —

- (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”); or
- (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).”.

(10) In paragraph 11(1) and (2), after “an application” insert “for a specific premises warrant”.

(11) After paragraph 11(2) insert —

“(2A) A judge of the High Court may grant an application for an all premises warrant under paragraph 10 if satisfied —

- (a) that an order made under paragraph 5 has not been complied with; and
- (b) that the person specified in the application is also specified in the order.

(2B) A judge of the High Court may also grant an application for an all premises warrant under paragraph 10 if satisfied that there are reasonable grounds for believing —

- (a) that there is material on premises to which the application relates which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege; and
- (b) that the conditions in sub-paragraphs (3) and (4) are met.”.

(12) In paragraph 11(4)(b), for “the premises on which the material is situated” substitute “premises to which the application for the warrant relates”.

(13) In paragraph 14(5) for “£2,500” substitute “£5,000”.

47. In Schedule 6 —

Schedule 6
amended

- (a) In paragraphs 3 and 5 for “Deemster” substitute “judge of the High Court”;
- (b) in paragraph 6(1)(f) after “raised under” insert “the Isle of Man Loans Act 1974 or”;
- (c) after paragraph 6(1)(i) insert —
 - “(j) any person who, in the course of a business, holds or manages any assets belonging to a client.”;
- (d) in paragraph 8(1) and (3) for “paragraph 1(3)” substitute “paragraph 1(4)”.

[c.6]

48. (1) Schedule 8 (detention) is amended as follows.

Schedule 8
amended

(2) In paragraph 8(4)(d) after “section 16” insert “, 16A or 16B”.

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

(3) For paragraph 9(3) substitute —

“(3) A direction under this paragraph may be given only if the Chief Constable has reasonable grounds for believing —

- (a) that, unless the direction is given, the exercise of the right by the detained person will have

any of the consequences specified in paragraph 8(4); or

- (b) that the detained person has benefited from his criminal conduct and that, unless the direction is given, the exercise of the right by the detained person will hinder the recovery of the value of the property constituting the benefit.”.

(4) After paragraph 19(1)(b) insert —

“(ba) pending the result of an examination or analysis of any relevant evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining relevant evidence,”.

(5) In paragraph 19(4), for “sub-paragraph (1)(a) and (b)” substitute “this paragraph”.

(6) In paragraph 28(1)(a), for “to obtain relevant evidence whether by questioning him or otherwise or to preserve relevant evidence” substitute “as mentioned in sub-paragraph (1A)”.

(7) After paragraph 28(1) insert —

“(1A) The further detention of a person is necessary as mentioned in this sub-paragraph if it is necessary —

- (a) to obtain relevant evidence whether by questioning the person or otherwise;
- (b) to preserve relevant evidence; or
- (c) pending the result of an examination or analysis of any relevant evidence or of anything the examination or analysis of which is to be or is being carried out with a view to obtaining relevant evidence.”.

(8) In paragraph 28(2), for “sub-paragraph (1)” substitute “this paragraph”.

(9) In paragraph 30(2)(c) after “section 16” insert “, 16A or 16B”.

50. For paragraph 8(2) and (3) of Schedule 9 substitute —

Schedule 9
amended

“(2) If an offence under the order —

- (a) is committed by a body corporate; and
- (b) is proved to have been committed with the consent or connivance of an officer, or to be attributable to any neglect on the part of the officer,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) If an offence under the order —

- (a) is committed by a partnership; and
- (b) is proved to have been committed with the consent or connivance of a partner, or to be attributable to any neglect on the part of the partner,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) If an offence under the order —

- (a) is committed by an unincorporated association; and
- (b) is proved to have been committed with the consent or connivance of an officer of the association, or to be attributable to any neglect on the part of any such officer,

the officer as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) If the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(6) In this paragraph —

“officer” includes —

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

[c.19]

and any person purporting to act in such a capacity;

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

[VIII p.327]

Schedule 13A inserted **51.** After Schedule 13 insert Schedule 13A set out in Schedule 4 to this Act.

Increase in maximum custodial sentence for summary offences **52.** In the provisions specified in Schedule 5 to this Act, for “6 months” substitute “12 months”.

Application **53.** (1) The amendment in section 18 does not apply to offences committed before the commencement of that section.

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

[c.6]

PART 3

AMENDMENTS TO OTHER ENACTMENTS

54. In section 3(1)(a) and (b) of the Explosive Substances Act 1883 (offences committed in preparation for use of explosives with intent to endanger life or property in the Island or the Republic of Ireland), in each place, for “the Republic of Ireland” substitute “elsewhere”.

Consequential amendment to Explosive Substances Act 1883
P2006/11/17(5)
[V p.262]

55. In section 70(1) of the Police Powers and Procedures Act 1998 (effect of accused’s failure to mention facts when questioned or charged: circumstances in which the section applies) after paragraph (b) insert —

Consequential amendment to Police Powers and Procedures Act 1998

“; or

P2008/28/22(9)

(c) at any time after being charged with the offence, on being questioned under section 41A of the Anti-Terrorism and Crime Act 2003 (post-charge questioning), failed to mention any such fact.”

[c.9]

[c.6]

56. (1) The Proceeds of Crime Act 2008 is amended as follows.

Consequential amendments to Proceeds of Crime Act 2008

(2) In section 73(3)(d) after “section 16” insert “, 16A or 16B”.

(3) In section 130(c) after “section 16” insert “, 16A or 16B”.

P2008/28/Sch 3 para 7

[c.13]

57. (1) The Terrorism (Finance) Act 2009 is amended as follows.

Amendments to Terrorism (Finance) Act 2009

(2) In section 3, after the definition of “financial restrictions proceedings” insert —

[c.8]

““interim direction” means a direction given under section 4A;”.

(3) After section 4 insert —

“Conditions for giving interim direction by Treasury

4A. (1) The Treasury may give an interim direction to a person mentioned in paragraph 1 of the Schedule if either of the following conditions is met in relation to a country.

(2) The first condition is that the Treasury reasonably suspects that there is a risk that terrorist financing or money laundering activities are being carried on —

- (a) in the country;
- (b) by the government of the country; or
- (c) by persons resident or incorporated in the country,

and that this poses a significant risk to the national interests of the Island.

(3) The second condition is that the Treasury reasonably suspects that —

- (a) the development or production of nuclear, radiological, biological or chemical weapons in the country; or
- (b) the doing in the country of anything that facilitates the development or production of any such weapons,

poses a significant risk to the national interests of the Island.

(4) The Treasury may not give more than one interim direction to the same person in relation to the same, or substantially the same, evidence.

(5) The Schedule has effect in relation to interim directions as it has effect in relation to directions save that in paragraph 9(3) the reference to “one year” is to be read as referring to “30 days”.

(4) After section 10 insert —

“Civil
penalty:
relevant
person
circumventing
direction
requirements

10A. (1) The enforcement authority may impose a penalty of such amount as it considers appropriate on a relevant person who has intentionally participated in activities knowing that the object or effect of them was (whether directly or indirectly) to circumvent a requirement of a direction imposed under Part 2 of the Schedule.

(2) In subsection (1) “appropriate” means effective, proportionate and dissuasive.

(3) A person on whom a penalty is imposed under this section is not liable to be proceeded against for an offence under section 13A in respect of participation in the same activities.”.

(5) After section 13 insert —

“Offences:
relevant
person
circumventing
direction
requirements” **13A.** (1) A relevant person who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly) to circumvent a requirement of a direction imposed under Part 2 of the Schedule commits an offence.

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

(a) on summary conviction, to a fine not exceeding £5,000;

(b) on conviction on indictment, to custody for a term not exceeding 2 years or a fine or both.

(3) A person who is convicted of an offence under this section is not liable to a penalty under section 10A in respect of participation in the same activities.”.

(6) For section 19(1)(a) substitute —

“(a) prepare a report —

(i) about its exercise during that year of its functions under this Part; or

(ii) indicating that that it has not exercised its functions under this Part during that year; and”.

(7) Section 19(2) is repealed.

(8) In section 23 —

(a) for subsections (3) and (4) substitute —

“(3) On such an application the High Court may make such order as it considers appropriate.”;

(b) in subsection (5) delete “Without limiting the generality of subsection (4),”.

(9) After section 27 insert —

“PART 3A

CODES FOR PREVENTING AND DETECTING TERRORIST FINANCING

Terrorism
Financing
Codes” **27A.** (1) The Department of Home Affairs must make such codes as it considers appropriate for the purpose of preventing and detecting terrorist financing.

(2) Without limiting the generality of subsection (1), a code may —

- (a) provide practical guidance with respect to the requirements of any statutory provision relating to the benefits or proceeds of terrorism or the treatment of terrorist property;
- (b) require any person carrying on a business in the regulated sector to institute and operate such systems, procedures, record-keeping, controls and training as may be specified in the code;
- (c) require persons carrying on, employed in or otherwise concerned in a business in the regulated sector to comply with such systems, procedures, record-keeping, controls and training as are required to be instituted and operated under paragraph (b);
- (d) provide that in such cases of contravention of a code as are specified in the code, such persons as are so specified shall each be guilty of an offence and liable —
 - (i) on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000, or both; and
 - (ii) on conviction on indictment, to custody for not more than 2 years, a fine, or both.

(3) A code under this section may incorporate by reference any relevant regulations, code, directions and guidance made or issued by any relevant supervisory authority or any other appropriate body.

(4) Before making a code under this section the Department of Home Affairs must consult any person or body that appears to it to be appropriate.

(5) A code under this section must not come into operation unless it is approved by Tynwald.

(6) A code under this section —

- (a) may make different provision for different purposes;
- (b) may include supplementary, incidental, saving or transitional provision.

(7) A failure on the part of any person to observe any provision of a code does not of itself render that person liable to —

- (a) any civil proceeding; or
- (b) except as provided under subsection (2)(d), any criminal proceeding.

(8) In this section “terrorist property” has the same meaning as in section 6 of the Anti-Terrorism and Crime Act 2003”.

(10) In paragraph 3 of the Schedule —

(a) in sub-paragraph (1), after paragraph (c), insert —

“or

(d) a body corporate that is a subsidiary of a body corporate within paragraph (a) or (c)”;

(b) after sub-paragraph (5) add —

“(6) In this paragraph “subsidiary” means a body corporate (whether or not incorporate under the Companies Acts 1931 to 2004) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another the provisions of section 1 of the Companies Act 1974 shall apply with the necessary modifications.”. [c.30]

Section 42

SCHEDULE 1

SCHEDULE 2A INSERTED

“Sections 16A, 18C,
72B and 72C

SCHEDULE 2A

[P2008/28/Sch 2] OFFENCES WHERE TERRORIST CONNECTION
TO BE CONSIDERED

- [IV p.160] **1.** An offence under any of the following sections of the Criminal Code 1872 —
- (a) section 18 (murder);
 - (b) section 19 (soliciting murder);
 - (c) section 20 (manslaughter)
 - (d) section 38 (maliciously administering poison etc so as to endanger life or inflict grievous bodily harm);
 - (e) section 43 (causing bodily injury by explosives);
 - (f) section 44 (using explosives etc with intent to do grievous bodily harm);
 - (g) section 45 (placing explosives with intent to do bodily injury);
 - (h) sections 60B, 60C and 60D (detention, kidnapping and hostage-taking);
 - (i) section 136 (making or having gunpowder etc with intent to commit or enable any person to commit any felony against the Act).
- [V p.262] **2.** An offence under any of the following sections of the Explosive Substances Act 1883 —
- (a) section 2 (causing explosion likely to endanger life or property);
 - (b) section 3 (attempt to cause explosion or making or keeping explosive with intent to endanger life or property);
 - (c) section 4 (making or having possession of explosives under suspicious circumstances);
 - (d) section 5 (accessories).
- [c. 6] **3.** An offence under section 1 of the Biological Weapons Act 1974 (restriction on development etc of certain biological agents and toxins and of biological weapons) (of Parliament).
- [c.28] **4.** An offence under section 1 of the Taking of Hostages Act 1982 (hostage-taking) (of Parliament).
- [c.36] **5.** An offence under any of the following sections of the Aviation Security Act 1982 (of Parliament) —

- (a) section 1 (hijacking); SCH. 1
- (b) section 2 (destroying, damaging or endangering safety of aircraft);
- (c) section 3 (other acts endangering or likely to endanger safety of aircraft);
- (d) section 4 (offences in relation to certain dangerous articles);
- (e) section 6(2) (inducing or assisting commission of offence under section 1, 2 or 3 outside the Island).

6. An offence under any of the following sections of the Nuclear Material (Offences) Act 1983 (of Parliament) — [c.18]

- (a) section 1B (offences relating to damage to the environment);
- (b) section 1C (offences of importing or exporting etc nuclear materials: extended jurisdiction);
- (c) section 2 (offences involving preparatory acts and threats), so far as relating to an offence specified in this Schedule.

7. An offence under section 1 (endangering safety at aerodromes) of the Aviation and Maritime Security Act 1990 (of Parliament). [c.31]

8. An offence under any of the following sections of the Maritime Security Act 1995 — [c. 5]

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

9. An offence under any of the following sections of the Chemical Weapons Act 1996 (of Parliament) — [c. 6]

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

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

Section 45

SCHEDULE 2

SCHEDULE 4A INSERTED

“Section 18U
[P2008/28/Sch 5]

SCHEDULE 4A

TRAVEL RESTRICTION ORDERS

Introductory

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

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

Conditions for making a travel restriction order

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

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

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

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

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

Application for travel restriction order

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

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

Provisions of a travel restriction order

4. (1) A travel restriction order may prohibit the person to whom it applies —

- (a) from travelling to any country outside the Island named or described in the order; or SCH. 2
- (b) from travelling to any country outside the Island other than a country named or described in the order; or
- (c) from travelling to any country outside the Island.

(2) The order may impose only such prohibitions as are necessary for the purpose of preventing the person from taking part in terrorism activity outside the Island.

(3) A travel restriction order containing a prohibition within sub-paragraph (1)(c) must require the person to whom it applies to surrender all that person's passports, at a police station specified in the order —

- (a) on or before the date when the prohibition takes effect; or
- (b) within a period specified in the order.

(4) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a travel restriction order containing such a prohibition.

(5) In this Schedule “passport” means —

- (a) a United Kingdom passport within the meaning of the Immigration Act 1971, of Parliament (as that Act has effect in the Island); or [c.77]
- (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom or by or on behalf of an international organisation,

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

Duration of travel restriction order

5. (1) A travel restriction order has effect for a fixed period of not more than 6 months.

(2) The period must be specified in the order.

(3) A travel restriction order ceases to have effect if a court (whether the same or another court) makes another travel restriction order in relation to the person to whom the earlier order applies.

Variation, renewal or discharge of order

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

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

SCH. 2

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

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

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

Provisions of renewed or varied order

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

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

Appeals

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

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

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

(3) The appeal lies to the High Court.

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

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

Breach of travel restriction order an offence

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

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

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

- (a) on summary conviction, to custody for not more than 12 months, a fine not exceeding £5,000, or both; SCH. 2
- (b) on conviction on information, to custody for not more than 5 years, a fine, or both.

(3) Where a person is convicted of an offence under this paragraph, it is not open to the court by or before which the person is convicted to make an order for conditional discharge in respect of the offence.

Meaning of “terrorism activity”

10. In this Schedule “terrorism activity” means anything that —

- (a) if done in the Island, would constitute an offence to which this Part applies by virtue of section 18B; or
- (b) is, or takes place in the course of, an act of terrorism or is for the purposes of terrorism.”.

Section 49

SCHEDULE 3

SCHEDULE 8A INSERTED

“Section 31A
[P2006/11/Sch 2]

SCHEDULE 8A

SEIZURE AND FORFEITURE OF TERRORIST PUBLICATIONS

Application of Schedule

1. This Schedule applies where an article —
 - (a) has been seized under the authority of a warrant under section 31A;
and
 - (b) is being retained in the custody of a constable (“the relevant constable”).

Notice of seizure

2. (1) The relevant constable must give notice of the article’s seizure to —
 - (a) every person whom the relevant constable believes to have been the owner of the article, or one of its owners, at the time of the seizure;
and
 - (b) if there is no such person or it is not reasonably practicable to give him or her notice, every person whom the relevant constable believes to have been an occupier at that time of the premises where the article was seized.
- (2) The notice must set out what has been seized and the grounds for the seizure.
- (3) The notice may be given to a person only by —
 - (a) delivering it to the person personally;
 - (b) addressing it to the person and leaving it for him or her at the appropriate address; or
 - (c) addressing it to the person and sending it to him or her at that address by post.
- (4) But where it is not practicable to give a notice in accordance with sub-paragraph (3), a notice given by virtue of sub-paragraph (1)(b) to the occupier of the premises where the article was seized may be given by —
 - (a) addressing it to “the occupier” of those premises, without naming him or her; and
 - (b) leaving it for him or her at those premises or sending it to him or her at those premises by post.
- (5) An article may be treated or condemned as forfeited under this Schedule only if —

- (a) the requirements of this paragraph have been complied with in the case of that article; or
- (b) it was not reasonably practicable for them to be complied with.
- (6) In this paragraph “the appropriate address”, in relation to a person, means —
- (a) in the case of a body corporate, its registered or principal office in the Island;
- (b) in the case of a firm, the principal office of the partnership;
- (c) in the case of an unincorporated body or association, the principal office of the body or association; and
- (d) in any other case, his or her usual or last known place of residence in the Island or his or her last known place of business in the Island.
- (7) In the case of —
- (a) a company registered outside the Island;
- (b) a firm carrying on business outside the Island; or
- (c) an unincorporated body or association with offices outside the Island,
- the references in this paragraph to its principal office include references to its principal office within the Island (if any).

Notice of claim

- 3.** (1) A person claiming that the seized article is not liable to forfeiture may give notice of his or her claim to a constable at any police station.
- (2) Oral notice is not sufficient for these purposes.
- 4.** (1) A notice of claim may not be given more than one month after —
- (a) the day of the giving of the notice of seizure; or
- (b) if no such notice has been given, the day of the seizure.
- (2) A notice of claim must specify —
- (a) the name and address of the claimant; and
- (b) in the case of a claimant who is outside the Island, the name and address of an advocate in the Island who is authorised to accept service, and to act, on behalf of the claimant.
- (3) Service upon an advocate so specified is to be taken to be service on the claimant for the purposes of any proceedings by virtue of this Schedule.

SCH. 3

(4) In a case in which notice of the seizure was given to different persons on different days, the reference in this paragraph to the day on which that notice was given is a reference —

- (a) in relation to a person to whom notice of the seizure was given, to the day on which that notice was given to the person; and
- (b) in relation to any other person, to the day on which notice of the seizure was given to the last person to be given such a notice.

Automatic forfeiture in a case where no claim is made

5. The article is to be treated as forfeited if, by the end of the period for the giving of a notice of claim in respect of it —

- (a) no such notice has been given; or
- (b) the requirements of paragraphs 3 and 4 have not been complied with in relation to the only notice or notices of claim that have been given.

Forfeiture by the court in other cases

6. (1) Where a notice of claim in respect of an article is duly given in accordance with paragraphs 3 and 4, the relevant constable must decide whether to take proceedings to ask the court to condemn the article as forfeited.

(2) The decision whether to take such proceedings must be made as soon as reasonably practicable after the giving of the notice of claim.

(3) If the relevant constable takes such proceedings and the court —

- (a) finds that the article was liable to forfeiture at the time of its seizure; and
- (b) is satisfied that its forfeiture is appropriate,

the court must condemn the article as forfeited.

(4) If that constable takes such proceedings and the court —

- (a) finds that the article was not liable to forfeiture at the time of its seizure; or
- (b) is not satisfied that its forfeiture is appropriate,

the court must order the return of the article to the person who appears to the court to be entitled to it.

(5) If the relevant constable decides not to take proceedings for condemnation in a case in which a notice of claim has been given, he or she must return the article to the person who appears to him or her to be the owner of the article, or to one of the persons who appear to him or her to be owners of it.

(6) An article required to be returned in accordance with sub-paragraph (5) must be returned as soon as reasonably practicable after the decision not to take proceedings for condemnation. SCH. 3

Forfeiture proceedings

7. Proceedings by virtue of this Schedule are civil proceedings and may be instituted in the High Court or a court of summary jurisdiction.

8. (1) The claimant or the claimant's advocate must make his or her oath that, at the time of the seizure, the seized article was, or was to the best of his or her knowledge and belief, the property of the claimant.

(2) In any such proceedings instituted in the High Court —

(a) the court may require the claimant to give such security for the costs of the proceedings as may be determined by the court; and

(b) the claimant must comply with any such requirement.

(3) If a requirement of this paragraph is not complied with, the court must find against the claimant.

9. (1) In the case of proceedings by virtue of this Schedule that are instituted in a court of summary jurisdiction, either party may appeal against the decision of that court to the High Court.

(2) This paragraph does not affect any right to require the statement of a case for the opinion of the Staff of Government Division.

10. Where an appeal has been made (whether by case stated or otherwise) against the decision of the court in proceedings by virtue of this Schedule in relation to an article, the article is to be left in the custody of a constable pending the final determination of the matter.

Effect of forfeiture

11. Where an article is treated or condemned as forfeited under this Schedule, the forfeiture is to be treated as having taken effect as from the time of the seizure.

Disposal of unclaimed property

12. (1) This paragraph applies where the article seized under the authority of a warrant under section 31A is required to be returned to a person.

(2) If —

(a) the article is (without having been returned) still in the custody of a constable after the end of the period of 12 months beginning with the day after the requirement to return it arose; and

- SCH. 3 (b) it is not practicable to dispose of the article by returning it immediately to the person to whom it is required to be returned,

the constable may dispose of it in any manner he or she thinks fit.

Provisions as to proof

13. In proceedings arising out of the seizure of an article, the fact, form and manner of the seizure is to be taken, without further evidence and unless the contrary is shown, to have been as set forth in the process.

14. In proceedings, the condemnation by a court of an article as forfeited under this Schedule may be proved by the production of either —

- (a) the order of condemnation; or
- (b) a certified copy of the order purporting to be signed by an officer of the court by which the order was made.

Special provisions as to certain claimants

15. (1) This paragraph applies where, at the time of the seizure of the article, it was —

- (a) the property of a body corporate;
- (b) the property of 2 or more partners; or
- (c) the property of more than 5 persons.

(2) The oath required by paragraph 8, and any other thing required by this Schedule or by rules of court to be done by an owner of the article, may be sworn or done by —

- (a) a person falling within sub-paragraph (3); or
 - (b) a person authorised to act on behalf of a person so falling.
- (3) The persons falling within this sub-paragraph are —
- (a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;
 - (b) where the owners are in partnership, any one or more of the owners;
 - (c) where there are more than 5 owners and they are not in partnership, any 2 or more of the owners acting on behalf of themselves and any of their co-owners who are not acting on their own behalf.

Saving for owner's rights

16. Neither the imposition of a requirement by virtue of this Schedule to return an article to a person nor the return of an article to a person in accordance with such a requirement affects —

- (a) the rights in relation to that article of any other person; or SCH. 3
- (b) the right of any other person to enforce his or her rights against the person to whom it is returned.”.

Section 51

SCHEDULE 4

SCHEDULE 13A INSERTED

“Section 75(1)
[P2006/11/20(9) & Sch 1]

SCHEDULE 13A

CONVENTION OFFENCES

Explosive offences

[V p.262] **1.** An offence under any of the following provisions of the Explosive Substances Act 1883 —

- (a) section 2 (causing an explosion likely to endanger life);
- (b) section 3 (preparation of explosions);
- (c) section 5 (ancillary offences).

Biological weapons

[c. 6] **2.** An offence under section 1 (biological agents and weapons) of the Biological Weapons Act 1974 (of Parliament).

Offences against internationally protected persons

[c.17] **3.** (1) An offence mentioned in section 1(1)(a) of the Internationally Protected Persons Act 1978 (of Parliament) (attacks against protected persons committed outside the Island) which is committed (whether in the Island or elsewhere) in relation to a protected person.

(2) An offence mentioned in section 1(1)(b) of that Act (attacks on relevant premises etc) which is committed (whether in the Island or elsewhere) in connection with an attack —

- (a) on relevant premises or on a vehicle ordinarily used by a protected person; and
- (b) at a time when a protected person is in or on the premises or vehicle.

(3) An offence under section 1(3) of that Act (threats etc in relation to protected persons).

(4) Expressions used in this paragraph and section 1 of that Act have the same means in this paragraph as in that section.

Hostage-taking

[c.28] **4.** An offence under section 1 of the Taking of Hostages Act 1982 (of Parliament) (hostage-taking).

Hijacking and other offences against aircraft

[c.36] **5.** Offences under any of the following provisions of the Aviation Security Act 1982 (of Parliament) —

- (a) section 1 (hijacking); SCH. 4
- (b) section 2 (destroying, damaging or endangering safety of aircraft);
- (c) section 3 (other acts endangering or likely to endanger safety of aircraft);
- (d) section 6(2) (ancillary offences).

Offences involving nuclear material

6. (1) An offence mentioned in section 1(1)(a) to (d) of the Nuclear Material (Offences) Act 1983 (of Parliament) (offences in relation to nuclear material committed outside the Isle of Man) which is committed (whether in the Isle of Man or elsewhere) in relation to or by means of nuclear material. [c.18]

(2) An offence mentioned in section 1(1)(a) or (b) of that Act where the act making the person guilty of the offence (whether done in the Island or elsewhere) —

- (a) is directed at a nuclear facility or interferes with the operation of such a facility; and
- (b) causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material.

(3) An offence under any of the following provisions of that Act —

- (a) section 1B (offences relating to damage to environment);
- (b) section 1C (offences of importing or exporting etc nuclear material: extended jurisdiction);
- (c) section 2 (offences involving preparatory acts and threats).

(4) Expressions used in this paragraph and that Act have the same meanings in this paragraph as in that Act.

7. (1) Any of the following offences under the Customs and Excise Management Act 1986 — [c.34]

- (a) an offence under section 47(2) or (3) (improper importation of goods) in connection with a prohibition or restriction relating to the importation of nuclear material;
- (b) an offence under section 69(2) (exportation of prohibited or restricted goods) in connection with a prohibition or restriction relating to the exportation or shipment as stores of nuclear material;
- (c) an offence under section 178(1) or (2) (fraudulent evasion of duty) in connection with a prohibition or restriction relating to the importation, exportation or shipment as stores of nuclear material.

(2) In this paragraph “nuclear material” has the same meaning as in the Nuclear Material (Offences) Act 1983 (of Parliament) (see section 6 of that Act). [c.18]

SCH. 4

Offences relating to aviation and maritime security

[c.31] **8.** (1) An offence under section 1 of the Aviation and Maritime Security Act 1990 (of Parliament) (endangering safety at aerodromes).

[c. 5] (2) Offences under any of the following provisions of the Maritime Security Act 1995 —

- (a) section 1 (hijacking of ships);
- (b) section 2 (seizing or exercising control of fixed platforms);
- (c) section 3 (destroying ships or fixed platforms or endangering their safety);
- (d) section 4 (other acts endangering or likely to endanger safe navigation);
- (e) section 5 (offences involving threats relating to ships or fixed platforms);
- (f) section 6 (ancillary offences).

Offences involving chemical weapons

[c. 6] **9.** An offence under section 2 of the Chemical Weapons Act 1996 (of Parliament) (use, development etc of chemical weapons).

Terrorist funds

10. An offence under any of the following provision of this Act —

- (a) section 7 (terrorist fund-raising);
- (b) section 8 (use or possession of terrorist funds);
- (c) section 9 (facilitating funding for terrorism);
- (d) section 10 (money laundering of terrorist funds).

Directing terrorist organisation

11. An offence under section 44 (directing a terrorist organisation) of this Act.

Offences involving nuclear weapons

12. An offence under section 49B (use etc of nuclear weapons) of this Act.

Conspiracy etc

13. Any of the following offences —

- (a) conspiracy to commit a Convention offence; SCH. 4
- (b) inciting the commission of a Convention offence;
- (c) attempting to commit a Convention offence;
- (d) aiding, abetting, counselling or procuring the commission of a Convention offence.

14. The Department may by order —

- (a) amend this Schedule so as to add an offence to the offences listed in this Schedule;
- (b) amend this Schedule so as to remove an offence from the offences so listed;
- (c) make supplemental, incidental, consequential or transitional provision in connection with the addition or removal of an offence.

Interpretation

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

Section 52

SCHEDULE 5

INCREASE IN MAXIMUM CUSTODIAL SENTENCE
FOR SUMMARY OFFENCES

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.