

2009 No. 3203

CRIMINAL LAW

NUCLEAR SAFEGUARDS

**The Nuclear Material (Offences) Act 1983 (Isle of Man) Order
2009**

Made - - - - - *9th December 2009*

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 9th day of December 2009

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 7(2) of the Nuclear Material (Offences) Act 1983(a), by and with the advice and consent of Her Privy Council, makes the following Order:

Citation and commencement

1. This Order may be cited as the Nuclear Material (Offences) Act 1983 (Isle of Man) Order 2009 and comes into force on the day after the day on which it is made.

Interpretation

2. In this Order "the Act" means the Nuclear Material (Offences) Act 1983 as amended by section 75 of and Part 1 of Schedule 17 to the Criminal Justice and Immigration Act 2008(b).

Extension of the Act to the Isle of Man

3. Sections 1 to 4, 6 and 8 of and the Schedule to the Act shall extend to the Isle of Man with the modifications set out in the Schedule to this Order.

(a) 1983 c.18.

(b) 2008 c.4. The Criminal Justice and Immigration Act 2008 inserted sections 1(1A), 1A, 1B, 1C, 1D, 2A, 3A, 6(A1), 6(1A), 6(1B), 6(6), 6(7) and 6(8); it omitted section 1(2); it substituted sections 2 and 6(5) and the sidenote to section 6; and it amended sections 1(1)(b), 6(1), 6(2) and 7(2); section 152(7) of the 2008 Act provides that the reference to the extent of the 1983 Act in section 7(2) of the 1983 Act includes a reference to the extent of the 1983 Act as amended by the 2008 Act. Amendments made to the 1983 Act by other Acts are not relevant to this Order.

Revocation

4. The Nuclear Material (Offences) Act 1983 (Isle of Man) Order 1991^(a) is revoked.

Judith Simpson
Clerk of the Privy Council

^(a) SI 1991/1719.

Modifications in the extension of the provisions of the Act to the Isle of Man

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

2. Any reference to an Act of Tynwald, or to a provision of an Act of Tynwald, shall be construed as including a reference to that Act or provision as amended or replaced by or under any other such Act or provision.

3. For any reference to the United Kingdom, or to a part of the United Kingdom, there shall be substituted a reference to the Isle of Man.

4. In section 1(1) (Extended scope of certain offences)—

(a) for paragraph (b) substitute—

“(b) an offence under section 33 or 35 of the Criminal Code 1872 (an Act of Tynwald) or section 1 of the Criminal Damage Act 1981 (an Act of Tynwald), or”;

(b) for paragraph (d) substitute—

“(d) the offence of fraud or extortion or an offence under section 14 or 23 of the Theft Act 1981 (an Act of Tynwald),”.

5. In section 1A(1) (Increase in penalties for offences committed in relation to nuclear material etc) for “indictment” substitute “information”.

6. In section 1B(4) (Offences relating to damage to environment) for “indictment” substitute “information”.

7. In section 1C (Offences of importing or exporting etc nuclear material: extended jurisdiction)—

(a) in subsection (4) omit “(in Scotland, sufficient evidence)”;

(b) in subsection (6) for “indictment” substitute “information”.

8. In section 1D (Offences under section 1C: investigations and proceedings etc)—

(a) in subsection (1)—

(i) for “Commissioners for Her Majesty’s Revenue and Customs” substitute “Treasury”;

(ii) for “CEMA 1979 (see section 1(1) of that Act)” substitute “CEMA 1986 (see section 184(1) of that Act)”;

(b) in subsection (2) for “Section 138 of CEMA 1979” substitute “Section 145 of CEMA 1986”;

(c) in subsection (3) for “Sections 145 to 148 and 150 to 155 of CEMA 1979” substitute “Sections 152 to 155 and 157 to 162 of CEMA 1986”;

(d) for subsection (4) substitute—

“(4) In this section—

“CEMA 1986” means the Customs and Excise Management Act 1986 (an Act of Tynwald);

“the customs and excise Acts”, “shipment” and “stores” have the same meanings as in CEMA 1986 (see section 184(1) of that Act);

“the Treasury” means the Isle of Man Treasury, a department of the government of the Isle of Man.”

9. In section 2(8) (Offences involving preparatory acts and threats) for “indictment” substitute “information”.

10. In section 2A (Inchoate and secondary offences: extended jurisdiction)—

- (a) in subsection (3)(d) for “section 50(2) or (3), 68(2) or 170(1) or (2) of the Customs and Excise Management Act 1979” substitute “sections 47(2) or (3), 69(2) or 178(1) or (2) of the Customs and Excise Management Act 1986 (an Act of Tynwald)”;
- (b) in subsection (4) for paragraphs (a) to (c) substitute—
 - “(a) an offence under section 23 of the Theft Act 1981 (an Act of Tynwald), or
 - (b) an offence of extortion.”
- (c) omit subsection (5).

11. In section 3 (Supplemental)—

- (a) for subsection (1) substitute—

“(1) Proceedings for an offence which (disregarding the provisions of the Internationally Protected Persons Act 1978(a), the Suppression of Terrorism Act 1978(b), the United Nations Personnel Act 1997(c), and the Anti-Terrorism and Crime Act 2003 (an Act of Tynwald)) would not be an offence apart from the preceding provisions of this Act shall not be begun in the Isle of Man except by or with the consent of the Attorney General for the Isle of Man.”;
- (b) omit subsection (2).

12. In section 4 (Amendments of other Acts)—

- (a) in subsection (1)(b), for “subsections (4) and (5)” substitute “subsection (4)”;
- (b) for subsection (2), substitute—

“(2) In the Schedule to the Visiting Forces Act 1952(d) (which specifies the offences which are offences against the person and against property for the purposes of section 3 of that Act)—

 - (a) in paragraph 1, after sub-paragraph (d), there shall be inserted the following sub-paragraph—

“(e) an offence under section 2 of the Nuclear Material (Offences) Act 1983 where the circumstances are that—

 - (i) in the case of a contravention of subsection (2), the act falling within paragraph (a) or (b) of that subsection would, had it been done, have constituted an offence falling within paragraph (a) or (b) of this paragraph, or
 - (ii) in the case of a contravention of subsection (3) or (4), the act threatened would, had it been done, have constituted such an offence”;
 - (b) in paragraph 2, after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(d) an offence under section 2 of the Nuclear Material (Offences) Act 1983, where the circumstances are that—

(a) 1978 c.17. The provisions of this Act extend to the Isle of Man by virtue of SI 1979/574.

(b) 1978 c.26. The provisions of this Act were amended in their application to the Isle of Man by SI 1978/1530.

(c) 1997 c.13. The provisions of this Act extend to the Isle of Man by virtue of SI 1998/1509.

(d) 1952 c.67. The Visiting Forces Act 1952 was extended to the Isle of Man by S.I. 1962/170; the Schedule to that Act, as the Act has effect in the Isle of Man, was substituted by paragraph 7 of Schedule 3 to the Sexual Offences Act 1992 (an Act of Tynwald); the substituted Schedule was subsequently amended as it has effect in the Isle of Man by SI 1998/1509.

- (i) in the case of a contravention of subsection (2), the act falling within paragraph (a) or (b) of that subsection would, had it been done, have constituted an offence falling within paragraphs 2(a)(i) to (iv) of this paragraph, or
 - (ii) in the case of a contravention of subsection (3) or (4), the act threatened would, had it been done, have constituted such an offence.””;
- (c) omit subsection (3)(a).

13. In section 8 (Short title and commencement), omit subsection (2).

(a) Section 4(3) was repealed as it applied in the United Kingdom by the Northern Ireland (Emergency Provisions) Act 1991 (c.24) (section 70(4), and Part 1 of Schedule 8). That Act did not extend to the Isle of Man.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Nuclear Material (Offences) Act 1983 (Isle of Man) Order 1991.

This Order extends sections 1 to 4, 6 and 8 of and the Schedule to the Nuclear Material (Offences) Act 1983 as amended by section 75 of and schedule 17 to the Criminal Justice and Immigration Act 2008 to the Isle of Man with the modifications specified in the Schedule to the Order.

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