



## **Consultation on the draft Terrorism and Crime (Miscellaneous Amendments) Bill 2015**

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**Appendix 1 The Terrorism and Crime (Miscellaneous Amendments) Bill 2015**

**Appendix 2 Code of Practice on Consultations**

## **1. Introduction**

- 1.1. In April 2016 the Isle of Man will undergo an on-site evaluation of its Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) regime by MONEYVAL<sup>1</sup>. The Isle of Man Government has been making preparations for this review in the course of which a number of points have emerged which require some amendments to existing AML/CFT legislation.
- 1.2. The amendments identified have arisen in part from information arising out of recent MONEYVAL evaluations that have taken place in other jurisdictions and from a review undertaken by the Attorney General's Chambers of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism 2005 (commonly known as the "Warsaw Convention")<sup>2</sup> again partly in preparation for the MONEYVAL assessment. The review sought to clarify to what extent the Isle of Man complies with the provisions of the Warsaw Convention and to identify any gaps in Isle of Man law with a view ultimately to the Isle of Man seeking extension to it of the Warsaw Convention in due course. This will however be subject to further legislative review and consultation and to formal political agreement.
- 1.3. The Isle of Man (along with Guernsey and Jersey) has participated in the peer-group evaluation process of the MONEYVAL members since 2012. The Government considers that it is in the best economic and reputational interests of the Isle of Man to continuously review its anti-money laundering and anti-terrorist financing legislation to ensure that it is compliant with international standards and to ensure that the regulatory framework in the Isle of Man is such that money laundering and terrorist financing can be effectively frustrated. The Government recognises the importance attached to international recognition of the Island's adherence to AML/CFT standards and is working closely with industry to prepare for this forthcoming review.
- 1.4. These amendments will strengthen the Island's legislative framework in a number of technical areas and will also enable a more timely response to new standards and the application of international sanctions.

## **2. The Terrorism and Crime (Miscellaneous Amendments) Bill 2015**

- 2.1. The object of the Terrorism and Crime (Miscellaneous Amendments) Bill 2015 relates to the international obligations of the Isle of Man in respect of AML/CFT. The provisions reflect the ongoing challenge of addressing threats around terrorist financing and money laundering relating to serious organised crime and corruption.

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<sup>1</sup> MONEYVAL was established in September 1997 by the Committee of Ministers of the Council of Europe to conduct self and mutual assessment exercises of the anti-money laundering measures in place in Council of Europe member states, which are not members of the Financial Action Task Force \* (FATF).

<sup>2</sup> <http://www.conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=198&CM=8&DF=05/08/2015&CL=ENG>

- 2.2. Failure to introduce such changes will have a negative impact upon the forthcoming peer review by MONEYVAL and a negative impact upon the ability of the Isle of Man to have extended to it relevant international conventions – both of which provide a measure for other jurisdictions of the level of compliance in the Island – which enhances the international reputation of the Island and facilitates quality international business.
- 2.3. A copy of the draft Bill can be found in Appendix 1 to this paper.

### **3. Substantive Provisions of the Bill**

#### **3.1. Clause 4 of the Bill**

Clause 4 inserts new section 21B into the Criminal Justice Act 1991<sup>3</sup>.

Chapter IV of the Warsaw Convention deals with international co-operation and provides that Parties should mutually co-operate with each other to the widest extent possible for the purposes of investigations and proceedings aiming at the confiscation of instrumentalities<sup>4</sup> and proceeds<sup>5</sup> of crime. Each State Party is required to adopt such legislative or other measures as may be necessary to enable it to comply with requests for confiscation of specific items of property representing proceeds or instrumentalities of crime, as well as for confiscation of proceeds consisting in a requirement to pay a sum of money corresponding to the value of proceeds. Article 43 of the Warsaw Convention deals with confidentiality in relation to requests for mutual legal assistance and provides that the requesting State Party shall, if not contrary to basic principles of its national law and if so requested, keep confidential any evidence and information provided by the requested Party, except to the extent that its disclosure is necessary for the investigations or proceedings described in the request.

The review identified that the Isle of Man does not have an equivalent to section 9 of the UK's Crime (International) Cooperation Act 2003<sup>6</sup> dealing with the use of evidence obtained from a request for mutual legal assistance for a purpose other than the original one. This section ensures that evidence obtained from an overseas authority may be used only for the purposes for which it was requested (unless the consent of the requested overseas authority has been obtained), and is subject to the same provisions on the admissibility of evidence as evidence obtained under normal domestic arrangements.

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<sup>3</sup> [http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1991/1991-0025/CriminalJusticeAct1991\\_2.pdf](http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1991/1991-0025/CriminalJusticeAct1991_2.pdf)

<sup>4</sup> "instrumentalities" is defined in the convention as meaning any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences;

<sup>5</sup> "proceeds" is defined in the Convention as meaning any economic advantage, derived from or obtained, directly or indirectly, from criminal offences and "property" includes property of any description, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title to or interest in such property

<sup>6</sup> <http://www.legislation.gov.uk/ukpga/2003/32/contents>

Given the increasingly cross border nature of serious and organised crime and terrorism, and with the need to have appropriate mechanisms to regulate international cooperation, there should be equivalent provision to section 9 of the UK's 2003 Act in the Island's law. It is considered that such a provision will fit appropriately in Chapter III the Criminal Justice Act 1991 which deals with the exchange of evidence or information.

### **3.2. Clause 5 of the Bill**

Clause 5 amends section 53 of the Criminal Justice Act 2001<sup>7</sup>.

Article 11 of the Warsaw Convention deals with previous convictions in the context of money laundering convictions. It provides that each State Party shall adopt such legislative and other measures as may be necessary to provide for the possibility of taking into account, when determining the penalty, final decisions against a natural or legal person taken in another State Party in relation to money laundering offences.

The review showed that Isle of Man law does not have a full equivalent to sections 103(7) to 103(11) of the UK's Criminal Justice Act 2003<sup>8</sup> providing for the treatment of previous convictions for offences outside England and Wales. By virtue of these provisions, a foreign conviction is treated in England and Wales as admissible as evidence of bad character if the corresponding offence in England and Wales would be so treated. The Isle of Man also lacked an equivalent to section 73 of the UK's Police and Criminal Evidence Act 1984<sup>9</sup> dealing with proof of convictions in EU Member States.

This means that, currently, there is the anomalous situation that a relevant previous conviction in England could be taken into account in a case before the Island's Courts but a similar conviction in, for example, the Republic of Ireland or Sweden could not.

Amending section 53 of the Criminal Justice Act 2001 to provide for inclusion of foreign convictions in any court in a Member State of the EU will remedy this gap.

### **3.3. Clauses 6, 9, 10, 12, 13 and 14 of the Bill**

Clause 6 amends the definition of property in section 75 of the Anti-Terrorism and Crime Act 2003<sup>10</sup> and clauses, 9, 10, 12, 13, and 14 make the same amendment in various sections of the Proceeds of Crime Act 2008<sup>11</sup>.

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<sup>7</sup> [http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2001/2001-0004/CriminalJusticeAct2001\\_5.pdf](http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2001/2001-0004/CriminalJusticeAct2001_5.pdf)

<sup>8</sup> <http://www.legislation.gov.uk/ukpga/2003/44/section/103>

<sup>9</sup> <http://www.legislation.gov.uk/ukpga/1984/60/section/73>

<sup>10</sup> [http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2003/2003-0006/Anti-TerrorismandCrimeAct2003\\_6.pdf](http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2003/2003-0006/Anti-TerrorismandCrimeAct2003_6.pdf)

<sup>11</sup> [http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2008/2008-0013/ProceedsofCrimeAct2008\\_8.pdf](http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2008/2008-0013/ProceedsofCrimeAct2008_8.pdf)

During recent evaluations of other jurisdictions by Moneyval, it is understood that the assessors commented that the definition of “property” in proceeds of crime and related legislation needed to be comprehensively transposed from the international standards. The assessors felt that the language of the relevant international conventions and the FATF definitions explicitly covering legal documents or instruments evidencing title to or an interest in such assets should be adopted to avoid legal uncertainty. The assessors made reference to the UK’s Proceeds of Crime Act 2002 which contains extended definitions of “property”.

Following the review by the Attorney General’s Chambers, it was considered that the Isle of Man’s Proceeds of Crime Act 2008 and related legislation were likely to attract similar criticism by the Moneyval team. Although the definition of “property” in the Isle of Man’s legislation was very wide, there was no explicit reference to legal documents or instruments evidencing title.

To avoid legal uncertainty, it was decided that the Isle of Man should amend its relevant legislation to ensure that the definition of “property” fully implemented the latest international standards.

### **3.4. Clauses 7, 15 and 19 of the Bill**

Clauses 7, 15 and 19 of the Bill insert new sections into the Anti-terrorism and Crime Act 2003, the Proceeds of Crime Act 2008 and the Terrorism and other Crime (Financial Restrictions) Act 2014<sup>12</sup> respectively, conferring on the Council of Ministers the authority to make provision by order for requiring compliance with any such evolving standards or operational practices. This change seeks to ensure that the Isle of Man can adhere in a timely manner to constantly developing international operational standards in the matter of anti-money laundering and anti-terrorism law enforcement.

The Council of Ministers’ authority to make such an order is limited in scope to international obligations, standards and recommendations from the following recognised AML/CFT standard setting bodies – the Financial Action Task Force (“FATF”), the International Monetary Fund (“IMF”) and MONEYVAL. Before such an order can be made it must be subject to a two-stage approval process; being first laid in draft at one Tynwald sitting, before it can be approved at a subsequent sitting.

There is an increasing need to adhere to developing international operational standards in the matter of anti-money laundering and anti-terrorist law enforcement in a timely manner. This is something that the Isle of Man has found challenging to achieve as such changes currently require primary legislation. Conferring on the Council of Ministers the authority to

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<sup>12</sup> [http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0013/TerrorismandOtherCrimeFinancialRestrictionsAct2014\\_1.pdf](http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0013/TerrorismandOtherCrimeFinancialRestrictionsAct2014_1.pdf)

make provision by order for requiring compliance with evolving standards set by a limited number of specified international bodies would achieve this aim. Similar provisions exist within other legislation with the same intention of enabling the Island to be reasonably concurrent with recognised standards, such as the FATF Recommendations, as they develop and as their interpretation evolves.

### **3.5. Clauses 8 and 16 of the Bill**

Clauses 8 and 16 contain consequential amendments to section 77 of the Anti-Terrorism and Crime Act 2003 and section 223 of the Proceeds of Crime Act 2008 respectively.

The amendment to section 77 is required as the Tynwald procedure for orders under newly inserted section 76B (see clause 7) are more onerous than those currently required under the 2003 Act. Ordinarily, orders under the 2003 Act must be approved by Tynwald or they will cease to have effect. However, the Tynwald procedure for orders under section 76B(1) will require two Tynwald sittings for the order to be approved and then made. Orders under section 76B(4) will require Tynwald approval before they may come into operation.

An amendment to section 223 of the 2008 Act is also required for the same reasons as outlined above. The Tynwald procedure for orders under newly inserted section 222A (see section 15) is more onerous than those currently required under the 2008 Act. Ordinarily, orders under the 2008 Act require Tynwald approval before they may come into operation. However, the Tynwald procedure for orders under section 222A(1) will require two Tynwald sittings for the order to be approved and then made.

### **3.6. Clause 11 of the Bill**

Clause 11 amends section 150 of the Proceeds of Crime Act 2008 to address an anomaly within the existing legislation whereby currently the maximum summary penalty available for custody under the Anti-Money Laundering and Countering the Financing of Terrorism Code 2015<sup>13</sup> exceeds the summary penalty for the main money laundering offences under the Proceeds of Crime Act 2008.

The maximum summary penalty for the money laundering offences under the 2008 Act should have been amended from 6 months to 12 months at the same time as the maximum summary penalty for money laundering offences under the Code was changed but this was inadvertently overlooked.

International bodies stress the need for countries to have sufficiently robust penalties for money laundering and it is considered to be appropriate for the maximum custody penalty on summary conviction for a substantive money laundering offence to be 12 months.

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<sup>13</sup> <http://www.tynwald.org.im/links/tls/SD/2015/2015-SD-0102.pdf>

### **3.7. Clause 17 of the Bill**

Clause 17 amends section 3 of Terrorism and other Crime (Financial Restrictions) Act 2014.

In order to protect the Island's reputation it is the Isle of Man Government's policy to implement international sanctions measures, including financial restrictions and terrorist asset-freezing requirements in respect of designated persons and entities, adopted by the UN, the EU and the UK.

There are a number of UN Sanctions Committees which have been established under UN Security Council Resolutions which maintain lists of persons and entities which should be subject to terrorist asset freezing requirements and other financial restriction measures.

Currently, the normal way in which the Isle of Man implements UN sanctions measures is to apply and implement the EU legislation which implements the UN measures for the Member States using the powers in the European Communities (Isle of Man) Act 1973. Although when the EU legislation is applied to the Island it is done so in such a way that changes to lists of designated persons under the EU legislation automatically have effect in the Isle of Man, there is obviously some delay between the UN Committees updating their lists and the EU reflecting these changes in its legislation. As asset flight from a country can take place within hours of a person or entity being listed by a UN Committee, the delay between the UN listing and implementation in national law should be as short as possible.

It is understood that such delays elsewhere have been commented upon by MONEYVAL.

By amending the definition of "designated person" so that it makes direct reference to persons or entities listed in the various anti-terrorist lists prepared by the Committees set up by the United Nations Security Council the delay between UN listing and implementation in the law of the Island will be eliminated.

As the relevant UN and EU sanctions instruments may change from time to time the Council of Ministers will have the power, subject to the approval of Tynwald, to amend the definition of "designated person" to reflect any such changes.

### **3.8. Clause 18 of the Bill**

Clause 18 of the Bill inserts new section 5A into the Terrorism and other Crime (Financial Restrictions) Act 2014.

This is another provision resulting from recent evaluations by MONEYVAL where it was recommended that relevant terrorist financing legislation should expressly extend the definition of funds subject to freezing to cover assets "jointly" or "indirectly" owned, held or

controlled by the relevant persons. As this is a matter highlighted during an evaluation process the Government considers that it is appropriate for the Isle of Man to introduce this extended definition into legislation.

#### **4. Consultation Process**

- 4.1. Comments are invited on the proposals in the consultation document. The consultation is being conducted by the Cabinet Office.
- 4.2. The closing date for comments is **22 September 2015**. Please send your views in writing and preferably by e-mail to:

Rose Dawson  
Change and Reform Project Manager  
[Rose.dawson@gov.im](mailto:Rose.dawson@gov.im)  
Tel. (01624) 685037

Cabinet Office, Government Office, Bucks Road, Douglas, Isle of Man IM1 3PN

- 4.3. When submitting your views please indicate whether you are responding on behalf of an organisation.
- 4.4. Additional copies of the consultation document can be obtained from the Cabinet Office (address as above).
- 4.5. Electronic copies of this document are also available on the Government's consultations website at <http://www.gov.im/consultations.gov>
- 4.6. To ensure that the process is open and honest and in line with the Government's Code of Conduct on Consultation responses can only be accepted if you provide your name with your response.
- 4.7. Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. Please mark your response clearly if you wish your response and name to be kept confidential. Confidential responses will be included in any statistical summary and numbers of comments received.
- 4.8. A summary of the responses received will be published within 3 months of the closing date for this consultation, and will be made available on the Government website or by contacting the above named Officer.



4.9. The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the proposal. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.



## TERRORISM AND CRIME (MISCELLANEOUS AMENDMENTS) BILL 2015

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## TERRORISM AND CRIME (MISCELLANEOUS AMENDMENTS) BILL 2015

A **BILL** to amend certain enactments so as to secure or improve compliance with international standards and obligations; 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:—

### 1 Short title

The short title of this Act is the Terrorism and Crime (Miscellaneous Amendments) Act 2015.

### 2 Commencement

- (1) This Act, except section 1 and this section, comes into operation on such day or days as the Department of Home Affairs may by order appoint.
- (2) An order under subsection (1) may include such supplemental, incidental, consequential and transitional provisions as appear to the Department of Home Affairs to be necessary or expedient.

### 3 Interpretation

In this Act —

“the 1991 Act” means the *Criminal Justice Act 1991*;

“the 2001 Act” means the *Criminal Justice Act 2001*;

“the 2003 Act” means the *Anti-Terrorism and Crime Act 2003*;

“the 2008 Act” means the *Proceeds of Crime Act 2008*; and

“the 2014 Act” means the *Terrorism and Other Crime (Financial Restrictions) Act 2014*.

### 4 Section 21B of the 1991 Act inserted

After section 21A of the 1991 Act (offence of disclosure) insert —

**21B Use of evidence obtained**

- (1) This section applies to evidence obtained pursuant to a request for assistance under section 21.
- (2) The evidence may not without the consent of the appropriate overseas authority be used for any purpose other than that specified in the request.
- (3) When the evidence is no longer required for that purpose (or for any other purpose for which such consent has been obtained), it must be returned to the appropriate overseas authority, unless that authority indicates that it need not be returned.
- (4) In this section, the appropriate overseas authority means the authority specified by the government of the country or territory in question as the appropriate authority for transmitting requests of the kind in question.

**5 Section 53 of the 2001 Act amended**

In section 53 of the 2001 Act (evidence in criminal proceedings - convictions), in each of subsections (1), (2) and (3) for “British Isles” substitute “British Islands or any court in a member State of the EU”.

**6 Section 75 of the 2003 Act amended**

In section 75(1) of the 2003 Act (interpretation), for the definition of “property” substitute the following definition —

“property” is all property, wherever situated and includes —

- (a) money;
- (b) all forms of property, real or personal, heritable or moveable;
- (c) things in action and other intangible or incorporeal property; and
- (d) legal documents and instruments evidencing title to or interest in any such property;

**7 Section 76B of the 2003 Act inserted**

After section 76A of the 2003 Act (liability of officers of bodies corporate etc) insert —

**76B Compliance with international standards**

- (1) The Council of Ministers may by order amend this Act in connection with the implementation of —
  - (a) relevant international obligations or standards; or

(b) the recommendations (however described) of international bodies that are involved with the adoption, monitoring or promotion of such obligations or standards.

(2) An order under subsection (1) may contain such consequential, supplementary, incidental and transitional provisions as the Council of Ministers considers to be necessary or expedient.

(3) In this section —

“**FATF**” means the Financial Action Task Force;

“**FATF Recommendations**” means the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, adopted by FATF, together with any guidance or supporting documentation published by FATF;

“**international bodies**” means —

(a) FATF;

(b) the International Monetary Fund; and

(c) MONEYVAL;

“**MONEYVAL**” means the Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism; and

“**relevant international obligations or standards**” means the FATF Recommendations, as they have effect from time to time.

(4) The Council of Ministers may by order amend, insert or omit definitions in subsection (3).

(5) No order under subsection (1) may be made unless a draft of the proposed order has been laid before a sitting of Tynwald and that draft has been approved at a subsequent sitting of Tynwald.

(6) An order under subsection (4) must not come into operation unless it is approved by Tynwald. **22**.

## 8 Section 77 of the 2003 Act amended

(1) In section 77 (orders etc), after subsection (2) insert —

**22**(2A) Subsection (2) does not apply to orders made under section 76B(1) or (4). **22**.

## 9 Section 65 of the 2008 Act amended

In section 65 of the 2008 Act (general interpretation of Part 1), for subsection (4) substitute —

**23**(4) Property is all property, wherever situated and includes —

(a) money;

- (b) all forms of property, real or personal, heritable or moveable;
- (c) things in action and other intangible or incorporeal property; and
- (d) legal documents and instruments evidencing title to or interest in any such property. **22**.

#### 10 Section 132 of the 2008 Act amended

In section 132 of the 2008 Act (property: general provisions), for subsection (1) substitute —

- 64**(1) Property is all property, wherever situated and includes —
  - (a) money;
  - (b) all forms of property, real or personal, heritable or moveable;
  - (c) things in action and other intangible or incorporeal property; and
  - (d) legal documents and instruments evidencing title to or interest in any such property. **22**.

#### 11 Section 150 of the 2008 Act amended

In section 150 of the 2008 Act (penalties for money laundering), in each of subsections (1)(a) and (2)(a) for “6 months” substitute “12 months”.

#### 12 Section 158 of the 2008 Act amended

In section 158 of the 2008 Act (interpretation of Part 3), for subsection (9) substitute —

- 64**(9) Property is all property, wherever situated and includes —
  - (a) money;
  - (b) all forms of property, real or personal, heritable or moveable;
  - (c) things in action and other intangible or incorporeal property; and
  - (d) legal documents and instruments evidencing title to or interest in any such property. **22**.

#### 13 Section 197 of the 2008 Act amended

In section 197 of the 2008 Act (property), for subsection (1) substitute —

- 64**(1) Property is all property, wherever situated and includes —
  - (a) money;

- (b) all forms of property, real or personal, heritable or moveable;
- (c) things in action and other intangible or incorporeal property; and
- (d) legal documents and instruments evidencing title to or interest in any such property. **22**.

#### 14 Section 218 of the 2008 Act amended

In section 218 of the 2008 Act (interpretation of Part 7), for subsection (4) substitute —

- 22**(4) Property is all property, wherever situated and includes —
- (a) money;
  - (b) all forms of property, real or personal, heritable or moveable;
  - (c) things in action and other intangible or incorporeal property; and
  - (d) legal documents and instruments evidencing title to or interest in any such property. **22**.

#### 15 Section 222A of the 2008 Act inserted

After section 222 of the 2008 Act (financial provision) insert —

##### **22 222A Compliance with international standards**

- (1) The Council of Ministers may by order amend this Act in connection with the implementation of —
  - (a) relevant international obligations or standards; or
  - (b) the recommendations (however described) of international bodies that are involved with the adoption, monitoring or promotion of such obligations or standards.
- (2) An order under subsection (1) may contain such consequential, supplementary, incidental and transitional provisions as the Council of Ministers considers to be necessary or expedient.
- (3) In this section —
 

“**FATF**” means the Financial Action Task Force;

“**FATF Recommendations**” means the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, adopted by FATF, together with any guidance or supporting documentation published by FATF;

“**international bodies**” means —



- (a) FATF;
- (b) the International Monetary Fund; and
- (c) MONEYVAL;

“**MONEYVAL**” means the Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism; and

“**relevant international obligations or standards**” means the FATF Recommendations, as they have effect from time to time.


- (4) The Council of Ministers may by order amend, insert or omit definitions in subsection (3).
- (5) No order under subsection (1) may be made unless a draft of the proposed order has been laid before a sitting of Tynwald and that draft has been approved at a subsequent sitting of Tynwald. **22**.

## 16 Section 223 of the 2008 Act amended

In section 223 (subordinate legislation), in subsection (4) after “under” insert **23** section 222A(1) or **24**.

## 17 Section 3 of the 2014 Act amended


- (1) Section 3 of the 2014 Act (interpretation) is amended as follows.
- (2) Renumber the existing text as subsection “(1)”.
- (3) In subsection (1), in the definition of “**designated person**” —
  - (a) at the end of paragraph (b) add the word “or”;
  - (b) after paragraph (b) insert —
    - 24**(c) a natural or legal person, group or entity —
      - (i) listed on the Al-Qaida Sanctions List maintained and amended from time to time by the Committee established pursuant to resolution 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities;
      - (ii) listed on a list maintained and amended from time to time by the Committee established pursuant to resolution 1988 (2011) as being associated with the Taliban; or
      - (iii) listed on a list maintained and amended from time to time by the Counter Terrorism Committee established pursuant to resolution 1373 (2001),
 such Committees being established by the United Nations Security Council; **25**.
- (4) After subsection (1) insert —

- (2) The Council of Ministers may by order amend the definition of “designated person” in subsection (1) to reflect changes to EU or United Nations instruments.
  - (3) An order under subsection (2) must not come into operation unless it is approved by Tynwald. 

## 18 Section 5A of the 2014 Act inserted

After section 5 of the 2014 Act (meaning of “resident”) insert —

### 5A Meaning of “owned”, “held” and “controlled”

- (1) In this Act —
  - (a) the words “**owned**”, “**held**”, “**controlled**”, “**directly**” and “**indirectly**” have the same meaning as they have in Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combatting terrorism<sup>1</sup> (as that Regulation is amended from time to time); and
  - (b) section 3 of the *European Communities (Isle of Man) Act 1973* applies to any question as to the meaning or effect of those words.
- (2) The fact that funds or economic resources (see the definitions of those terms in section 3) are owned, held or controlled by a designated person jointly with another person or otherwise does not prevent those funds being treated as being owned, held or controlled by the designated person for the purposes of sections 25 (power to require information) and 44 (freezing of funds and economic resources).
- (3) A reference in section 25 or 44 to funds being “owned, held or controlled” by a designated person includes a reference to them being owned, held or controlled directly or indirectly. 

## 19 Section 69A of the 2014 Act inserted

After section 69 of the 2014 Act (power to apply certain orders in council to the Island) insert —

### 69A Compliance with international standards

- (1) The Council of Ministers may by order amend this Act in connection with the implementation of —
  - (a) relevant international obligations or standards; or

<sup>1</sup> OJ L 344 of 28.12.2001 p70

- (b) the recommendations (however described) of international bodies that are involved with the adoption, monitoring or promotion of such obligations or standards.
- (2) An order under subsection (1) may contain such consequential, supplementary, incidental and transitional provisions as the Council of Ministers considers to be necessary or expedient.
- (3) In this section —
- “**FATF**” means the Financial Action Task Force;
- “**FATF Recommendations**” means the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, adopted by FATF, together with any guidance or supporting documentation published by FATF;
- “**international bodies**” means —
- (a) FATF;
- (b) the International Monetary Fund; and
- (c) MONEYVAL.
- “**MONEYVAL**” means the Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism; and
- “**relevant international obligations or standards**” means the FATF Recommendations, as they have effect from time to time.
- (4) The Council of Ministers may by order amend, insert or omit definitions in subsection (3).
- (5) No order under subsection (1) may be made unless a draft of the proposed order has been laid before a sitting of Tynwald and that draft has been approved at a subsequent sitting of Tynwald.
- (6) An order under subsection (4) must not come into operation unless it is approved by Tynwald. **22**.

## 20 Expiry

- (1) This Act expires —
- (a) on the day after its promulgation, if all of its provisions are in operation on its promulgation; or
- (b) otherwise, on the day after the last provision is brought into operation.
- (2) The expiry does not —
- (a) affect the continuing operation of the amendments made by this Act; or

- (b) revive any provision not in operation when the amendments took effect.

## **Appendix 2 Code of Practice on Consultations**

It is the intention of the Cabinet Office to carry out this consultation in accordance with the Government's Code of Practice on Consultation.

The Code sets out the following six criteria:

- Consult widely throughout the process, allowing a minimum of six weeks for a minimum of one written consultation at least once during the development of the legislation or policy;
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses;
- Ensure your consultation is clear, concise and widely accessible;
- Give feedback regarding the responses received and how the consultation process influenced the policy;
- Monitor your Office's effectiveness at consultation; and
- Ensure your consultation follows best practice, including carrying out an Impact Assessment.