

## ANTI-TERRORISM AND CRIME ACT 2003

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## AN ACT

to repeal and replace the Prevention of  
Terrorism Act 1990 and to make further  
provision about terrorism and criminal justice.

**W**E, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and 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 (that is to say):—

### PART I

#### INTRODUCTORY

#### **1. Terrorism: interpretation**

- (1) In this Act "terrorism" means the use or threat of action where —
- (a) the action falls within subsection (2),
  - (b) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and
  - (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.
- (2) Action falls within this subsection if it —
- (a) involves serious violence against a person,
  - (b) involves serious damage to property,
  - (c) endangers a person's life, other than that of the person committing the action,

- (d) creates a serious risk to the health or safety of the public or a section of the public, or
  - (e) is designed seriously to interfere with or seriously to disrupt an electronic system.
- (3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied.
- (4) In this section —
- (a) "action" includes action outside the Island;
  - (b) a reference to any person or to property is a reference to any person, or to property, wherever situated;
  - (c) a reference to the public includes a reference to the public of a country or territory other than the Island; and
  - (d) "the government" means the government of the Island, of the United Kingdom, of a part of the United Kingdom or of any other country or territory.
- (5) In this Act a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed organisation.

## PART II

### PROSCRIBED ORGANISATIONS

#### *Proscription*

#### **2. Proscribed organisations**

- (1) For the purposes of this Act an organisation is proscribed if —
  - (a) it is listed in Schedule 2 to the Terrorism Act 2000 (an Act of Parliament)<sup>1</sup> (in this Act referred to as the "UK Act"), or
  - (b) it operates under the same name as an organisation listed in that Schedule.
- (2) Subsection (1)(b) shall not apply in relation to an organisation listed in Schedule 2 to the UK Act if its entry is the subject of a note in that Schedule.
- (3) The Department shall maintain a list of the organisations that are for the time being included in Schedule 2 to the UK Act.
- (4) The Department shall —
  - (a) as soon as practicable after the commencement of this Part cause a copy of the list to be published in two newspapers published and circulating in the Island;

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<sup>1</sup> 2000 c.11

- (b) as soon as practicable after any amendment is made to Schedule 2 to the UK Act cause a copy of the amended list to be published in two newspapers published and circulating in the Island; and
- (c) make arrangements for copies of the list to be provided without charge to members of the public on request.

*Offences*

**3. Membership**

(1) A person commits an offence if he belongs or professes to belong to a proscribed organisation.

(2) It is a defence for a person charged with an offence under subsection (1) to prove —

- (a) that the organisation was not proscribed on the last (or only) occasion on which he became a member or began to profess to be a member, and
- (b) that he has not taken part in the activities of the organisation at any time while it was proscribed.

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

- (a) on conviction on indictment, to custody for a term not exceeding 10 years, to a fine or to both, or
- (b) on summary conviction, to custody for a term not exceeding 6 months, to a fine not exceeding £5,000 or to both.

(4) In subsection (2) "proscribed" means proscribed for the purposes of this Act, the Prevention of Terrorism Act 1990<sup>2</sup> and any of the following Acts of Parliament —

- (a) the UK Act;
- (b) the Northern Ireland (Emergency Provisions) Act 1996<sup>3</sup>;
- (c) the Northern Ireland (Emergency Provisions) Act 1991<sup>4</sup>;
- (d) the Prevention of Terrorism (Temporary Provisions) Act 1989<sup>5</sup>;
- (e) the Prevention of Terrorism (Temporary Provisions) Act 1984<sup>6</sup>;
- (f) the Northern Ireland (Emergency Provisions) Act 1978<sup>7</sup>;
- (g) the Prevention of Terrorism (Temporary Provisions) Act 1976<sup>8</sup>;

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<sup>2</sup> 1990 c.19

<sup>3</sup> 1996 c.22

<sup>4</sup> 1991 c.24

<sup>5</sup> 1989 c.4

<sup>6</sup> 1984 c.8

<sup>7</sup> 1978 c.5

<sup>8</sup> 1976 c.8

- (h) the Prevention of Terrorism (Temporary Provisions) Act 1974<sup>9</sup>;
- (i) the Northern Ireland (Emergency Provisions) Act 1973<sup>10</sup>.

#### **4. Support**

- (1) A person commits an offence if —
  - (a) he invites support for a proscribed organisation, and
  - (b) the support is not, or is not restricted to, the provision of money or other property (within the meaning of section 6).
- (2) A person commits an offence if he arranges, manages or assists in arranging or managing a meeting which he knows is —
  - (a) to support a proscribed organisation,
  - (b) to further the activities of a proscribed organisation, or
  - (c) to be addressed by a person who belongs or professes to belong to a proscribed organisation.
- (3) A person commits an offence if he addresses a meeting and the purpose of his address is to encourage support for a proscribed organisation or to further its activities.
- (4) Where a person is charged with an offence under subsection (2)(c) in respect of a private meeting it is a defence for him to prove that he had no reasonable cause to believe that the address mentioned in subsection (2)(c) would support a proscribed organisation or further its activities.
- (5) In subsections (2) to (4) —
  - (a) "meeting" means a meeting of 3 or more persons, whether or not the public are admitted, and
  - (b) a meeting is private if the public are not admitted.
- (6) A person guilty of an offence under this section shall be liable —
  - (a) on conviction on indictment, to custody for a term not exceeding 10 years, to a fine or to both, or
  - (b) on summary conviction, to custody for a term not exceeding 6 months, to a fine not exceeding £5,000 or to both.

#### **5. Uniform**

- (1) A person in a public place commits an offence if he —
  - (a) wears an item of clothing, or
  - (b) wears, carries or displays an article,

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<sup>9</sup> 1974 c.56

<sup>10</sup> 1973 c.53

in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organisation.

(2) A person guilty of an offence under this section shall be liable on summary conviction to custody for a term not exceeding 6 months, to a fine not exceeding £5,000, or to both.

### PART III

#### TERRORIST PROPERTY

##### *Interpretation*

#### **6. Terrorist property**

- (1) In this Act "terrorist property" means —
- (a) money or other property which is likely to be used for the purposes of terrorism (including any resources of a proscribed organisation),
  - (b) proceeds of the commission of acts of terrorism, and
  - (c) proceeds of acts carried out for the purposes of terrorism.
- (2) In subsection (1) —
- (a) a reference to proceeds of an act includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments or other rewards in connection with its commission), and
  - (b) the reference to an organisation's resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organisation.

##### *Offences*

#### **7. Fund-raising**

- (1) A person commits an offence if he —
- (a) invites another to provide money or other property, and
  - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
- (2) A person commits an offence if he —
- (a) receives money or other property, and
  - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
- (3) A person commits an offence if he —

- (a) provides money or other property, and
- (b) knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

(4) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

- (5) A person guilty of an offence under this section shall be 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 6 months, to a fine not exceeding £5,000 or to both.

## **8. Use and possession**

(1) A person commits an offence if he uses money or other property for the purposes of terrorism.

- (2) A person commits an offence if he —

- (a) possesses money or other property, and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

- (3) A person guilty of an offence under this section shall be 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 6 months, to a fine not exceeding £5,000 or to both.

## **9. Funding arrangements**

- (1) A person commits an offence if —

- (a) he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and
- (b) he knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

- (2) A person guilty of an offence under this section shall be 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 6 months, to a fine not exceeding £5,000 or to both.

**10. Money laundering**

(1) A person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property —

- (a) by concealment,
- (b) by removal from the jurisdiction,
- (c) by transfer to nominees, or
- (d) in any other way.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

(3) A person guilty of an offence under this section shall be 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 6 months, to a fine not exceeding £5,000 or to both.

**11. Disclosure of information: duty**

(1) This section applies where a person —

- (a) believes or suspects that another person has committed an offence under any of sections 7 to 10, and
- (b) bases his belief or suspicion on information which comes to his attention in the course of a trade, profession, business or employment,

but does not apply if the information came to the person in the course of a business in the regulated sector.

(2) The person commits an offence if he does not disclose to a constable as soon as is reasonably practicable —

- (a) his belief or suspicion, and
- (b) the information on which it is based.

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for not making the disclosure.

(4) Where —

- (a) a person is in employment,
- (b) his employer has established a procedure for the making of disclosures of the matters specified in subsection (2), and

- (c) he is charged with an offence under that subsection,

it is a defence for him to prove that he disclosed the matters specified in that subsection in accordance with the procedure.

(5) Subsection (2) does not require disclosure by a professional legal adviser of —

- (a) information which he obtains in privileged circumstances, or
- (b) a belief or suspicion based on information which he obtains in privileged circumstances.

(6) For the purpose of subsection (5) information is obtained by an adviser in privileged circumstances if it comes to him, otherwise than with a view to furthering a criminal purpose,,

- (a) from a client or a client's representative, in connection with the provision of legal advice by the adviser to the client,
- (b) from a person seeking legal advice from the adviser, or from the person's representative, or
- (c) from any person, for the purpose of actual or contemplated legal proceedings.

(7) For the purposes of subsection (1)(a) a person shall be treated as having committed an offence under one of sections 7 to 10 if —

- (a) he has taken an action or been in possession of a thing, and
- (b) he would have committed an offence under one of those sections if he had been in the Island at the time when he took the action or was in possession of the thing.

(8) In this section —

- (a) the reference to a business in the regulated sector must be construed in accordance with Schedule 1,
- (b) the reference to a constable includes a reference to a person authorised for the purposes of this section by the Attorney General.

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

—

- (a) on conviction on information, to custody for a term not exceeding 5 years, to a fine or to both, or
- (b) on summary conviction, to custody for a term not exceeding 6 months, or to a fine not exceeding £5,000 or to both.

## **12. Disclosure of information: permission**

(1) A person may disclose to a constable —

- (a) a suspicion or belief that any money or other property is terrorist property or is derived from terrorist property;

(b) any matter on which the suspicion or belief is based.

(2) A person may make a disclosure to a constable in the circumstances mentioned in section 11(1) and (2).

(3) Subsections (1) and (2) shall have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.

(4) Where —

(a) a person is in employment, and

(b) his employer has established a procedure for the making of disclosures of the kinds mentioned in subsection (1) and section 11(2),

subsections (1) and (2) shall have effect in relation to that person as if any reference to disclosure to a constable included a reference to disclosure in accordance with the procedure.

(5) In this section, references to a constable include references to a person authorised for the purposes of this section by the Attorney General.

### **13. Co-operation with police**

(1) A person does not commit an offence under any of sections 7 to 10 if he is acting with the express consent of a constable.

(2) Subject to subsections (3) and (4), a person does not commit an offence under any of sections 7 to 10 by involvement in a transaction or arrangement relating to money or other property if he discloses to a constable —

(a) his suspicion or belief that the money or other property is terrorist property, and

(b) the information on which his suspicion or belief is based.

(3) Subsection (2) applies only where a person makes a disclosure —

(a) after he becomes concerned in the transaction concerned,

(b) on his own initiative, and

(c) as soon as is reasonably practicable.

(4) Subsection (2) does not apply to a person if —

(a) a constable forbids him to continue his involvement in the transaction or arrangement to which the disclosure relates, and

(b) he continues his involvement.

(5) It is a defence for a person charged with an offence under any of sections 7(2) and (3) and 8 to 10 to prove that —

(a) he intended to make a disclosure of the kind mentioned in subsections (2) and (3), and

(b) there is reasonable excuse for his failure to do so.

- (6) Where —
  - (a) a person is in employment, and
  - (b) his employer has established a procedure for the making of disclosures of the same kind as may be made to a constable under subsection (2),

this section shall have effect in relation to that person as if any reference to disclosure to a constable included a reference to disclosure in accordance with the procedure.

(7) A reference in this section to a transaction or arrangement relating to money or other property includes a reference to use or possession.

#### **14. Failure to disclose: regulated sector**

(1) A person commits an offence if each of the following three conditions is satisfied.

- (2) The first condition is that he —
  - (a) knows or suspects, or
  - (b) has reasonable grounds for knowing or suspecting,

that another person has committed an offence under any of sections 7 to 10.

- (3) The second condition is that the information or other matter —
  - (a) on which his knowledge or suspicion is based, or
  - (b) which gives reasonable grounds for such knowledge or suspicion,

came to him in the course of a business in the regulated sector.

(4) The third condition is that he does not disclose the information or other matter to a constable or a nominated officer as soon as is practicable after it comes to him.

(5) But a person does not commit an offence under this section if —

- (a) he has a reasonable excuse for not disclosing the information or other matter;
- (b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.

(6) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant guidance which was at the time concerned —

- (a) issued by a supervisory authority or any other appropriate body, and
- (b) approved by the Treasury, and

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- (c) published in a manner it approved as appropriate in its opinion to bring the guidance to the attention of persons likely to be affected by it.
- (7) A disclosure to a nominated officer is a disclosure which —
  - (a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section, and
  - (b) is made in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose.
- (8) Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him —
  - (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
  - (b) by (or by a representative of) a person seeking legal advice from the adviser, or
  - (c) by a person in connection with legal proceedings or contemplated legal proceedings.
- (9) But subsection (8) does not apply to information or other matter which is communicated or given with a view to furthering a criminal purpose.
- (10) Schedule 1 has effect for the purpose of determining what is —
  - (a) a business in the regulated sector;
  - (b) a supervisory authority.
- (11) For the purposes of subsection (2) a person is to be taken to have committed an offence under one of sections 7 to 10 if —
  - (a) he has taken an action or been in possession of a thing, and
  - (b) he would have committed the offence if he had been in the Island at the time when he took the action or was in possession of the thing.
- (12) A person guilty of an offence under this section is liable —
  - (a) on conviction on information, to custody for a term not exceeding 5 years or to a fine or to both;
  - (b) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.
- (13) An appropriate body is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.
- (14) The reference to a constable includes a reference to a person authorised for the purposes of this section by the Attorney General.

## **15. Protected disclosures**

(1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).

(2) The first condition is that the information or other matter disclosed came to the person making the disclosure (the discloser) in the course of a business in the regulated sector.

(3) The second condition is that the information or other matter —

(a) causes the discloser to know or suspect, or

(b) gives him reasonable grounds for knowing or suspecting,

that another person has committed an offence under any of sections 7 to 10.

(4) The third condition is that the disclosure is made to a constable or a nominated officer as soon as is practicable after the information or other matter comes to the discloser.

(5) A disclosure to a nominated officer is a disclosure which —

(a) is made to a person nominated by the discloser's employer to receive disclosures under this section, and

(b) is made in the course of the discloser's employment and in accordance with the procedure established by the employer for the purpose.

(6) The reference to a business in the regulated sector must be construed in accordance with Schedule 1.

(7) The reference to a constable includes a reference to a person authorised for the purposes of this section by the Attorney General.

## **16. Forfeiture**

(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 the provisions of 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 —

(a) which, at the time of the offence, he had in his possession or under his control, and

(b) which, at that time, he intended should be used, or had reasonable cause to suspect might be used, for the purposes of terrorism.

(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 —

(a) which, at the time of the offence, he had in his possession or under his control, and

- (b) which, at that time, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.
- (4) Where a person is convicted of an offence under section 9 the court may order the forfeiture of the money or other property —
  - (a) to which the arrangement in question related, and
  - (b) which, at the time of the offence, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.
- (5) 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 arrangement in question related.
- (6) 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.
- (7) Where a person other than the convicted person claims to be the owner of or otherwise interested in anything which can be forfeited by an order under this section, the court shall give him an opportunity to be heard before making an order.
- (8) Schedule 2 (which makes further provision in relation to forfeiture orders under this section) shall have effect.

*Terrorist cash and accounts*

**17. Forfeiture of terrorist cash**

Schedule 3 (which makes provision for the forfeiture of terrorist cash in civil proceedings before the High Bailiff) shall have effect.

**18. Account monitoring orders**

Schedule 4 (account monitoring orders) shall have effect.

PART IV

TERRORIST INVESTIGATIONS

*Interpretation*

**19. Terrorist investigation**

In this Act "terrorist investigation" means an investigation of —

- (a) the commission, preparation or instigation of acts of terrorism,

- (b) an act which appears to have been done for the purposes of terrorism,
- (c) the resources of a proscribed organisation, or
- (d) the commission, preparation or instigation of an offence under this Act.

*Cordons*

**20. Cordoned areas**

(1) An area is a cordoned area for the purposes of this Act if it is designated under this section.

(2) A designation may be made only if the person making it considers it expedient for the purposes of a terrorist investigation.

(3) If a designation is made orally, the person making it shall confirm it in writing as soon as is reasonably practicable.

(4) The person making a designation shall arrange for the demarcation of the cordoned area, so far as is reasonably practicable —

- (a) by means of tape marked with the word "police", or
- (b) in such other manner as a constable considers appropriate.

**21. Power to designate**

(1) Subject to subsection (2), a designation under section 20 may only be made by a police officer who is of at least the rank of chief inspector.

(2) A constable who is not of the rank required by subsection (1) may make a designation if he considers it necessary by reason of urgency.

(3) Where a constable makes a designation in reliance on subsection (2) he shall as soon as is reasonably practicable —

- (a) make a written record of the time at which the designation was made, and
- (b) ensure that a police officer of at least the rank of chief inspector is informed.

(4) An officer who is informed of a designation in accordance with subsection (3)(b) —

- (a) shall confirm the designation or cancel it with effect from such time as he may direct, and
- (b) shall, if he cancels the designation, make a written record of the cancellation and the reason for it.

**22. Duration**

(1) A designation under section 20 has effect, subject to subsections (2) to (5), during the period —

- (a) beginning at the time when it is made, and
- (b) ending with a date or at a time specified in the designation.

(2) The date or time specified under subsection (1)(b) must not occur after the end of the period of 14 days beginning with the day on which the designation is made.

(3) The period during which a designation has effect may be extended in writing from time to time by —

- (a) the person who made it, or
- (b) a person who could have made it (otherwise than by virtue of section 21(2)).

(4) An extension shall specify the additional period during which the designation is to have effect.

(5) A designation shall not have effect after the end of the period of 28 days beginning with the day on which it is made.

**23. Police powers**

(1) A constable in uniform may —

- (a) order a person in a cordoned area to leave it immediately;
- (b) order a person immediately to leave premises which are wholly or partly in or adjacent to a cordoned area;
- (c) order the driver or person in charge of a vehicle in a cordoned area to move it from the area immediately;
- (d) arrange for the removal of a vehicle from a cordoned area;
- (e) arrange for the movement of a vehicle within a cordoned area;
- (f) prohibit or restrict access to a cordoned area by pedestrians or vehicles.

(2) A person commits an offence if he fails to comply with an order, prohibition or restriction imposed by virtue of subsection (1).

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for his failure.

(4) A person guilty of an offence under subsection (2) shall be liable on summary conviction to custody for a term not exceeding 3 months, or a fine not exceeding £2,500, or to both.

*Information and evidence*

**24. Powers**

Schedule 5 (power to obtain information, etc.) shall have effect.

**25. Financial information**

Schedule 6 (financial information) shall have effect.

**26. Information about acts of terrorism**

(1) This section applies where a person has information which he knows or believes might be of material assistance —

- (a) in preventing the commission by another person of an act of terrorism, or
- (b) in securing the apprehension, prosecution or conviction of another person, in the Island, for an offence involving the commission, preparation or instigation of an act of terrorism.

(2) The person commits an offence if he does not disclose the information as soon as reasonably practicable in accordance with subsection (3).

(3) Disclosure is in accordance with this subsection if it is made to a constable.

(4) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for not making the disclosure.

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

- (a) on conviction on information, to custody for a term not exceeding 5 years, or to a fine or to both, or
- (b) on summary conviction, to custody for a term not exceeding 6 months, or to a fine not exceeding £5,000 or to both.

(6) Proceedings for an offence under this section may be taken, and the offence may for the purposes of those proceedings be treated as having been committed, in any place where the person to be charged is or has at any time been since he first knew or believed that the information might be of material assistance as mentioned in subsection (1).

**27. Disclosure of information to prejudice terrorist investigations**

(1) Subsection (2) applies where a person knows or has reasonable cause to suspect that a constable is conducting or proposes to conduct a terrorist investigation.

(2) The person commits an offence if he —

*Anti-Terrorism and Crime Act 2003*

- (a) discloses to another anything which is likely to prejudice the investigation, or
  - (b) interferes with material which is likely to be relevant to the investigation.
- (3) Subsection (4) applies where a person knows or has reasonable cause to suspect that a disclosure has been or will be made under any of sections 11 to 13 or 26.
- (4) The person commits an offence if he —
- (a) discloses to another anything which is likely to prejudice an investigation resulting from the disclosure under that section, or
  - (b) interferes with material which is likely to be relevant to an investigation resulting from the disclosure under that section.
- (5) It is a defence for a person charged with an offence under subsection (2) or (4) to prove —
- (a) that he did not know and had no reasonable cause to suspect that the disclosure or interference was likely to affect a terrorist investigation, or
  - (b) that he had a reasonable excuse for the disclosure or interference.
- (6) Subsections (2) and (4) do not apply to a disclosure which is made by a professional legal adviser —
- (a) to his client or to his client's representative in connection with the provision of legal advice by the adviser to the client and not with a view to furthering a criminal purpose, or
  - (b) to any person for the purpose of actual or contemplated legal proceedings and not with a view to furthering a criminal purpose.
- (7) A person guilty of an offence under this section shall be liable —
- (a) on conviction on indictment, to custody for a term not exceeding 5 years, to a fine or to both, or
  - (b) on summary conviction, to custody for a term not exceeding 6 months, to a fine not exceeding £5,000 or to both.
- (8) For the purposes of this section —
- (a) a reference to conducting a terrorist investigation includes a reference to taking part in the conduct of, or assisting, a terrorist investigation, and
  - (b) a person interferes with material if he falsifies it, conceals it, destroys it or disposes of it, or if he causes or permits another to do any of those things.

PART V

COUNTER-TERRORIST POWERS

*Port controls*

**28. Port controls**

- (1) Schedule 7 (port controls) shall have effect.
- (2) The powers conferred by Schedule 7 shall be exercisable notwithstanding the rights conferred by —
  - (a) section 1 of the Immigration Act (general principles regulating entry into and staying in the Island;
  - (b) the Residence Act 2001<sup>11</sup> (regulation of residence in the Island).

*Suspected terrorists*

**29. Terrorist: interpretation**

- (1) In this Part, "terrorist" means a person who ,,
  - (a) has committed an offence under any of sections 3, 4, 7 to 10, 42 and 44 to 49, or
  - (b) is or has been concerned in the commission, preparation or instigation of acts of terrorism.
- (2) The reference in subsection (1)(b) to a person who has been concerned in the commission, preparation or instigation of acts of terrorism includes a reference to a person who has been, whether before or after the passing of this Act, concerned in the commission, preparation or instigation of acts of terrorism within the meaning given by section 1.

**30. Arrest without warrant**

- (1) A constable may arrest without a warrant a person whom he reasonably suspects to be a terrorist.
- (2) Where a person is arrested under this section the provisions of Schedule 8 (detention: treatment, review and extension) shall apply.
- (3) Subject to subsections (4) to (7), a person detained under this section shall (unless detained under any other power) be released not later than the end of the period of 48 hours beginning —
  - (a) with the time of his arrest under this section, or

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<sup>11</sup> 2001 c.7

(b) if he was being detained under Schedule 7 when he was arrested under this section, with the time when his examination under that Schedule began.

(4) If on a review of a person's detention under Part II of Schedule 8 the review officer does not authorise continued detention, the person shall (unless detained in accordance with subsection (5) or (6) or under any other power) be released.

(5) Where a police officer intends to make an application for a warrant under paragraph 25 of Schedule 8 extending a person's detention, the person may be detained pending the making of the application.

(6) Where an application has been made under paragraph 25 or 32 of Schedule 8 in respect of a person's detention, he may be detained pending the conclusion of proceedings on the application.

(7) Where an application under paragraph 25 or 32 of Schedule 8 is granted in respect of a person's detention, he may be detained, subject to paragraph 33 of that Schedule, during the period specified in the warrant.

(8) The refusal of an application in respect of a person's detention under paragraph 25 or 32 of Schedule 8 shall not prevent his continued detention in accordance with this section.

### **31. Search of premises**

(1) A justice of the peace may on the application of a constable issue a warrant in relation to specified premises if he is satisfied that there are reasonable grounds for suspecting that a person whom the constable reasonably suspects to be a person falling within section 29(1)(b) is to be found there.

(2) A warrant under this section shall authorise any constable to enter and search the specified premises for the purpose of arresting the person referred to in subsection (1) under section 30.

### **32. Search of persons**

(1) A constable may stop and search a person whom he reasonably suspects to be a terrorist to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

(2) A constable may search a person arrested under section 30 to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

(3) A search of a person under this section must be carried out by someone of the same sex.

(4) A constable may seize and retain anything which he discovers in the course of a search of a person under subsection (1) or (2) and which he reasonably suspects may constitute evidence that the person is a terrorist.

*Power to stop and search*

**33. Authorisations**

(1) An authorisation under this subsection authorises any constable in uniform to stop a vehicle in an area or at a place specified in the authorisation and to search —

- (a) the vehicle;
- (b) the driver of the vehicle;
- (c) a passenger in the vehicle;
- (d) anything in or on the vehicle or carried by the driver or a passenger.

(2) An authorisation under this subsection authorises any constable in uniform to stop a pedestrian in an area or at a place specified in the authorisation and to search —

- (a) the pedestrian;
- (b) anything carried by him.

(3) An authorisation under subsection (1) or (2) may be given only if the person giving it considers it expedient for the prevention of acts of terrorism.

(4) An authorisation may be given by the chief constable.

(5) If an authorisation is given orally, the chief constable shall confirm it in writing as soon as is reasonably practicable.

**34. Exercise of power**

(1) The power conferred by an authorisation under section 33(1) or (2) —

- (a) may be exercised only for the purpose of searching for articles of a kind which could be used in connection with terrorism, and
- (b) may be exercised whether or not the constable has grounds for suspecting the presence of articles of that kind.

(2) A constable may seize and retain an article which he discovers in the course of a search by virtue of section 33(1) or (2) and which he reasonably suspects is intended to be used in connection with terrorism.

(3) A constable exercising the power conferred by an authorisation may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

(4) Where a constable proposes to search a person or vehicle by virtue of section 33(1) or (2) he may detain the person or vehicle for such time as is reasonably required to permit the search to be carried out at or near the place where the person or vehicle is stopped.

- (5) Where —
  - (a) a vehicle or pedestrian is stopped by virtue of section 33(1) or (2), and
  - (b) the driver of the vehicle or the pedestrian applies for a written statement that the vehicle was stopped, or that he was stopped, by virtue of section 33(1) or (2),

the written statement shall be provided.

(6) An application under subsection (5) must be made within the period of 12 months beginning with the date on which the vehicle or pedestrian was stopped.

### **35. Duration of authorisation**

(1) An authorisation under section 33 has effect, subject to subsections (2) to (7), during the period —

- (a) beginning at the time when the authorisation is given, and
- (b) ending with a date or at a time specified in the authorisation.

(2) The date or time specified under subsection (1)(b) must not occur after the end of the period of 28 days beginning with the day on which the authorisation is given.

(3) The person who gives an authorisation shall inform the Department as soon as is reasonably practicable.

(4) If an authorisation is not confirmed by the Department before the end of the period of 48 hours beginning with the time when it is given —

- (a) it shall cease to have effect at the end of that period, but
- (b) its ceasing to have effect shall not affect the lawfulness of anything done in reliance on it before the end of that period.

(5) Where the Department confirms an authorisation it may substitute an earlier date or time for the date or time specified under subsection (1)(b).

(6) The Department may cancel an authorisation with effect from a specified time.

(7) An authorisation may be renewed in writing and subsections (1) to (6) shall apply as if a new authorisation were given on each occasion on which the authorisation is renewed.

### **36. Offences**

- (1) A person commits an offence if he —
  - (a) fails to stop a vehicle when required to do so by a constable in the exercise of the power conferred by an authorisation under section 33(1);

- (b) fails to stop when required to do so by a constable in the exercise of the power conferred by an authorisation under section 33(2);
- (c) intentionally obstructs a constable in the exercise of the power conferred by an authorisation under section 33(1) or (2).

(2) A person guilty of an offence under this section shall be liable on summary conviction to custody for a term not exceeding 6 months, or a fine not exceeding £5,000, or to both.

*Parking*

**37. Authorisations**

(1) An authorisation under this section authorises any constable in uniform to prohibit or restrict the parking of vehicles on a road specified in the authorisation.

(2) An authorisation may be given only if the Chief Constable considers it expedient for the prevention of acts of terrorism.

(3) An authorisation may be given by the Chief Constable.

(4) If an authorisation is given orally, the Chief Constable shall confirm it in writing as soon as is reasonably practicable.

**38. Exercise of power**

(1) The power conferred by an authorisation under section 37 shall be exercised by placing a traffic sign on the road concerned.

(2) A constable exercising the power conferred by an authorisation under section 37 may suspend a parking place.

(3) Where a parking place is suspended under subsection (2), the suspension shall be treated as a statutory restriction imposed by virtue of section 37 for the purposes of section 2 of the Local Government (Miscellaneous Provisions) Act 1984<sup>12</sup> (removal of vehicles illegally parked, etc.).

**39. Duration of authorisation**

(1) An authorisation under section 37 has effect, subject to subsections (2) and (3), during the period specified in the authorisation.

(2) The period specified shall not exceed 28 days.

(3) An authorisation may be renewed in writing and subsections (1) and (2) shall apply as if a new authorisation were given on each occasion on which the authorisation is renewed.

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<sup>12</sup> 1984 c.5

#### **40. Offences**

(1) A person commits an offence if he parks a vehicle in contravention of a prohibition or restriction imposed by virtue of section 37.

(2) A person commits an offence if —

- (a) he is the driver or other person in charge of a vehicle which has been permitted to remain at rest in contravention of any prohibition or restriction imposed by virtue of section 37, and
- (b) he fails to move the vehicle when ordered to do so by a constable in uniform.

(3) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for the act or omission in question.

(4) Possession of a current disabled person's badge shall not itself constitute a reasonable excuse for the purposes of subsection (3).

(5) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding £2,500.

(6) A person guilty of an offence under subsection (2) shall be liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding £2,500, or to both.

#### **41. Interpretation**

In sections 37 to 40 —

"disabled person's badge" means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 28 of the Road Traffic Regulation Act 1985<sup>13</sup>;

"driver" means, in relation to a vehicle which has been left on any road, the person who was driving it when it was left there;

"parking" means leaving a vehicle or permitting it to remain at rest;

"traffic sign" has the meaning given in section 38(1) of the Road Traffic Regulation Act 1985;

"vehicle" has the same meaning as in section 8(1) of the Local Government (Miscellaneous Provisions) Act 1984.

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<sup>13</sup> 1984 c.20

PART VI

MISCELLANEOUS TERRORIST OFFENCES

*Terrorist offences*

**42. Weapons training**

(1) A person commits an offence if he provides instruction or training in the making or use of —

- (a) firearms,
- (b) radioactive material or weapons designed or adapted for the discharge of any radioactive material,
- (c) explosives, or
- (d) chemical, biological or nuclear weapons.

(2) A person commits an offence if he receives instruction or training in the making or use of —

- (a) firearms,
- (b) weapons designed or adapted for the discharge of any radioactive material,
- (c) explosives, or
- (d) chemical, biological or nuclear weapons.

(3) A person commits an offence if he invites another to receive instruction or training and the receipt —

- (a) would constitute an offence under subsection (2), or
- (b) would constitute an offence under subsection (2) but for the fact that it is to take place outside the Island.

(4) Subsection (3)(b) applies in respect of United Kingdom nationals and bodies incorporated under the law of the Island or any part of the United Kingdom.

(5) For the purpose of subsections (1) and (3) —

- (a) a reference to the provision of instruction includes a reference to making it available either generally or to one or more specific persons, and
- (b) an invitation to receive instruction or training may be either general or addressed to one or more specific persons.

(6) It is a defence for a person charged with an offence under this section in relation to instruction or training to prove that his action or involvement was wholly for a purpose other than assisting, preparing for or participating in terrorism.

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

(a) on conviction on information, to custody for a term not exceeding 10 years, to a fine or to both, or

(b) on summary conviction, to custody for a term not exceeding 6 months, to a fine not exceeding £5,000 or to both.

(8) A court by or before which a person is convicted of an offence under this section may order the forfeiture of anything which the court considers to have been in the person's possession for purposes connected with the offence.

(9) Before making an order under subsection (8) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.

(10) An order under subsection (8) shall 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).

#### **43. Weapons training: interpretation**

In section 42 —

"biological weapon" means a biological agent or toxin within the meaning of the Biological Weapons Act 1974 (an Act of Parliament)<sup>14</sup> (as that Act has effect in the Island<sup>15</sup>) in a form capable of use for hostile purposes or anything to which section 1(1)(b) of that Act applies,

"chemical weapon" has the meaning given by section 1 of the Chemical Weapons Act 1996 (an Act of Parliament)<sup>16</sup> as that Act has effect in the Island<sup>17</sup>, and

"radioactive material" means radioactive material capable of endangering life or causing harm to humans.

#### **44. Directing terrorist organisation**

(1) A person commits an offence if he directs, at any level, the activities of an organisation which is concerned in the commission of acts of terrorism.

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

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<sup>14</sup> 1974 c.6

<sup>15</sup> SI 1974/1111

<sup>16</sup> 1996 c.6

<sup>17</sup> SI 1998/2794

**45. Possession for terrorist purposes**

(1) A person commits an offence if he possesses an article in circumstances which give rise to a reasonable suspicion that his possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism.

(2) It is a defence for a person charged with an offence under this section to prove that his possession of the article was not for a purpose connected with the commission, preparation or instigation of an act of terrorism.

(3) In proceedings for an offence under this section, if it is proved that an article —

- (a) was on any premises at the same time as the accused, or
- (b) was on premises of which the accused was the occupier or which he habitually used otherwise than as a member of the public,

the court may assume that the accused possessed the article, unless he proves that he did not know of its presence on the premises or that he had no control over it.

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

- (a) on conviction on indictment, to custody for a term not exceeding 10 years, to a fine or to both, or
- (b) on summary conviction, to custody for a term not exceeding 6 months, to a fine not exceeding £5,000 or to both.

**46. Collection of information**

(1) A person commits an offence if —

- (a) he collects or makes a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism, or
- (b) he possesses a document or record containing information of that kind.

(2) In this section "record" includes a photographic or electronic record.

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

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

- (a) on conviction on indictment, to custody for a term not exceeding 10 years, to a fine or to both, or

(b) on summary conviction, to custody for a term not exceeding 6 months, to a fine not exceeding £5,000 or to both.

(5) A court by or before which a person is convicted of an offence under this section may order the forfeiture of any document or record containing information of the kind mentioned in subsection (1)(a).

(6) Before making an order under subsection (5) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.

(7) An order under subsection (5) shall 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).

*Inciting terrorism overseas*

**47. Incitement**

(1) A person commits an offence if —

(a) he incites another person to commit an act of terrorism wholly or partly outside the Island, and

(b) the act would, if committed in the Island, constitute one of the offences listed in subsection (2).

(2) Those offences are —

(a) murder,

(b) an offence under section 33 of the Criminal Code 1872<sup>18</sup> (wounding with intent),

(c) an offence under section 38 or 39 of that Act (poison),

(d) an offence under section 43 or 44 of that Act (explosions), and

(e) an offence under section 1(2) of the Criminal Damage Act 1981<sup>19</sup> (endangering life by damaging property).

(3) A person guilty of an offence under this section shall be liable to any penalty to which he would be liable on conviction of the offence listed in subsection (2) which corresponds to the act which he incites.

(4) For the purposes of subsection (1) it is immaterial whether or not the person incited is in the Island at the time of the incitement.

(5) This section applies in respect of United Kingdom nationals and bodies incorporated under the law of the Island or any part of the United Kingdom.

(6) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

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<sup>18</sup> IV p.160

<sup>19</sup> 1981 c.19

*Terrorist bombing and finance offences*

**48. Terrorist bombing: jurisdiction**

- (1) If —
- (a) a person does anything outside the Island as an act of terrorism or for the purposes of terrorism, and
- (b) his action would have constituted the commission of one of the offences listed in subsection (2) if it had been done in the Island,

he shall be guilty of the offence.

- (2) The offences referred to in subsection (1)(b) are ,,
- (a) an offence under section 2, 3 or 5 of the Explosive Substances Act 1883<sup>20</sup> (causing explosions, etc.),
- (b) an offence under section 1 of the Biological Weapons Act 1974 (an Act of Parliament) as that Act has effect in the Island (biological weapons), and
- (c) an offence under section 2 of the Chemical Weapons Act 1996 (an Act of Parliament), as that Act has effect in the Island (chemical weapons).

**49. Terrorist finance: jurisdiction**

- (1) If —
- (a) a person does anything outside the Island, and
- (b) his action would have constituted the commission of an offence under any of sections 7 to 10 if it had been done in the Island,

he shall be guilty of the offence.

- (2) For the purposes of subsection (1)(b), section 10(1)(b) shall be read as if for "the jurisdiction" there were substituted "a jurisdiction".

PART VII

FREEZING ORDERS

*Orders*

**50. Power to make order**

- (1) The Treasury may make a freezing order if the following two conditions are satisfied.

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<sup>20</sup> V p.262

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- (2) The first condition is that the Treasury reasonably believes that
    - (a) action to the detriment of the Island's or the United Kingdom's economy (or part of it) has been or is likely to be taken by a person or persons, or
    - (b) action constituting a threat to the life or property of one or more residents of the Island or United Kingdom or nationals of the United Kingdom has been or is likely to be taken by a person or persons.
  - (3) If one person is believed to have taken or to be likely to take the action the second condition is that the person is —
    - (a) the government of a country or territory outside the British Islands, or
    - (b) a resident of a country or territory outside the Island.
  - (4) If two or more persons are believed to be taking or likely to take the action the second condition is that each of them falls within paragraph (a) or (b) of subsection (3); and different persons may fall within different paragraphs.

## **51. Contents of order**

- (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) nationals of the United Kingdom who are 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 50;
  - (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.
- (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 are financial assets and economic benefits of any kind.

**52. Orders: general**

- (1) A freezing order ceases to have effect at the end of the period of 2 years starting with the day on which it is made.
- (2) The Treasury must keep a freezing order under review.
- (3) Schedule 9 (which contains further provisions about freezing orders) has effect.
- (4) A freezing order is a public document.
- (5) A freezing order may include supplementary, incidental, saving or transitional provisions.
- (6) Nothing in this Part nor in Schedule 9 affects the generality of subsection (5) or the Interpretation Act 1976.

*Interpretation*

**53. Nationals and residents**

- (1) A national of the United Kingdom is an individual who is —
  - (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act.
- (2) A resident of the Island is —
  - (a) an individual who is ordinarily resident in the Island, or
  - (b) a body incorporated under the law of the Island.
- (3) A resident of a country or territory outside the Island is —
  - (a) an individual who is ordinarily resident in such a country or territory, or
  - (b) a body incorporated under the law of such a country or territory.
- (4) For the purposes of subsection (3)(b) a branch situated in a country or territory outside the Island of a body incorporated under the law of the Island is to be treated as a body incorporated under the law of the country or territory where the branch is situated.
- (5) This section applies for the purposes of this Part.

*Miscellaneous*

**54. Procedure for making orders**

(1) A power to make a freezing order is exercisable by order made by the Treasury.

(2) A freezing order must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting resolves that it shall be annulled, the order shall cease to have effect.

**55. The Crown**

(1) A freezing order binds the Crown, subject to the following provisions of this section.

(2) No contravention by the Crown of a provision of a freezing order makes the Crown criminally liable; but the High Court may, on the application of a person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Nothing in this section affects Her Majesty in her private capacity.

PART VIII

DISCLOSURE OF INFORMATION

**56. Exercise of existing disclosure powers**

(1) This section applies to the provisions listed in Schedule 10, so far as they authorise the disclosure of information.

(2) Each of the provisions to which this section applies shall have effect, in relation to the disclosure of information by or on behalf of a public authority, as if the purposes for which the disclosure of information is authorised by that provision included each of the following —

- (a) the purposes of any criminal investigation whatever which is being or may be carried out, whether in the Island or elsewhere;
- (b) the purposes of any criminal proceedings whatever which have been or may be initiated, whether in the Island or elsewhere;
- (c) the purposes of the initiation or bringing to an end of any such investigation or proceedings;
- (d) the purpose of facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end.

(3) The Department may by order add any provision contained in any subordinate legislation to the provisions to which this section applies.

(4) No disclosure of information shall be made by virtue of this section unless the public authority by which the disclosure is made is satisfied that the making of the disclosure is proportionate to what is sought to be achieved by it.

(5) Nothing in this section shall be taken to prejudice any power to disclose information which exists apart from this section.

(6) The information that may be disclosed by virtue of this section includes information obtained before the commencement of this section.

## **57. Restriction on disclosure of information for overseas purposes**

(1) Subject to subsections (2) and (3), the Department may give a direction which —

- (a) specifies any overseas proceedings or any description of overseas proceedings; and
- (b) prohibits the making of any relevant disclosure for the purposes of those proceedings or, as the case may be, of proceedings of that description.

(2) In subsection (1) the reference, in relation to a direction, to a relevant disclosure is a reference to a disclosure authorised by any of the provisions to which section 56 applies which —

- (a) is made for a purpose mentioned in subsection (2)(a) to (d) of that section; and
- (b) is a disclosure of any such information as may be described in the direction.

(3) The Department shall not give a direction under this section unless it appears to it that the overseas proceedings in question, or that overseas proceedings of the description in question, relate or would relate —

- (a) to a matter in respect of which it would be more appropriate for any jurisdiction or investigation to be exercised or carried out by a court or other authority of the Island;
- (b) to a matter in respect of which it would be more appropriate for any jurisdiction or investigation to be exercised or carried out by a court or other authority of a third country; or
- (c) to a matter that would fall within paragraph (a) or (b) —
  - (i) if it were appropriate for there to be any exercise of jurisdiction or investigation at all; and
  - (ii) if (where one does not exist) a court or other authority with the necessary jurisdiction or functions existed in the Island or, as the case may be, in the third country in question.

(4) A direction under this section shall not have the effect of prohibiting —

- (a) the making of any disclosure by the Governor, the Attorney General or by the Treasury; or
- (b) the making of any disclosure in pursuance of a Community obligation.

(5) A direction under this section —

- (a) may prohibit the making of disclosures absolutely or in such cases, or subject to such conditions as to consent or otherwise, as may be specified in it; and
- (b) must be published or otherwise issued by the Department in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it.

(6) A person who, knowing of any direction under this section, discloses any information in contravention of that direction shall be guilty of an offence and liable —

- (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine or to both;
- (b) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.

(7) The following are overseas proceedings for the purposes of this section —

- (a) criminal proceedings which are taking place, or will or may take place, in a country or territory outside the Island;
- (b) a criminal investigation which is being, or will or may be, conducted by an authority of any such country or territory.

(8) References in this section, in relation to any proceedings or investigation, to a third country are references to any country or territory outside the Island which is not the country or territory where the proceedings are taking place, or will or may take place or, as the case may be, is not the country or territory of the authority which is conducting the investigation, or which will or may conduct it.

(9) In this section "court" includes a tribunal of any description.

## **58. Disclosure of information held by Treasury**

(1) This section applies to information which is held by or on behalf of the Treasury.

(2) This section applies to information obtained before as well as after the coming into operation of this section.

(3) No obligation of secrecy imposed by statute or otherwise prevents the disclosure, in accordance with the following provisions of this

section, of information to which this section applies if the disclosure is made for the purposes of —

- (a) any terrorist investigation whatever which is being or may be carried out, whether in the Island or elsewhere;
- (b) any criminal proceedings whatever which relate, directly or indirectly, to any matter specified in paragraphs (a) to (d) of section 19 (terrorist investigations) and which have been or may be initiated, whether in the Island or elsewhere;
- (c) the initiation or bringing to an end of any such investigation or proceedings;
- (d) facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end; or
- (e) facilitating the carrying out by any of the British intelligence services of any of that service's functions which relate to protection from, and the prevention and detection of, terrorism.

(4) No disclosure of information to which this section applies shall be made by virtue of this section unless the person by whom the disclosure is made is satisfied that the making of the disclosure is proportionate to what is sought to be achieved by it.

(5) Information to which this section applies shall not be disclosed by virtue of this section except by the Treasury or with its authority.

(6) Information obtained by means of a disclosure authorised by subsection (3) shall not be further disclosed except —

- (a) for a purpose mentioned in that subsection; and
- (b) with the consent of the Treasury.

(7) A consent for the purposes of subsection (6) may be given either in relation to a particular disclosure or in relation to disclosures made in such circumstances as may be specified or described in the consent.

(8) Nothing in this section authorises the making of any disclosure which is prohibited by any provision of the Data Protection Act 1986<sup>21</sup>.

(9) References in this section to information which is held on behalf of the Treasury include references to information which —

- (a) is held by a person who provides services to the Treasury; and
- (b) is held by that person in connection with the provision of those services.

(10) In this section "intelligence services" means the Security Service, the Secret Intelligence Service or G.C.H.Q.

(11) Nothing in this section shall be taken to prejudice any power to disclose information which exists apart from this section.

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<sup>21</sup> 1986 c.31

(12) In section 1 of the Customs and Excise etc. (Amendment) Act 2001<sup>22</sup>, in the new section 174B ,,

(a) in subsection (2), at the end add —

"or

(e) facilitating the carrying out by any of the British intelligence services of any of that service's functions.";

(b) after subsection (8) insert ,,

"(8A) In this section "intelligence services" means the Security Service, the Secret Intelligence Service or G.C.H.Q."

## **59. Interpretation of Part VIII**

(1) In this Part —

"criminal investigation" means an investigation of any criminal conduct, including an investigation of alleged or suspected criminal conduct and an investigation of whether criminal conduct has taken place;

"information" includes —

(a) documents; and

(b) in relation to a disclosure authorised by a provision to which section 56 applies, anything that falls to be treated as information for the purposes of that provision;

"public authority" has the same meaning as in section 6 of the Human Rights Act 2001<sup>23</sup>.

(2) Proceedings outside the Island shall not be taken to be criminal proceedings for the purposes of this Part unless the conduct with which the defendant in those proceedings is charged is criminal conduct or conduct which, to a substantial extent, consists of criminal conduct.

(3) In this section —

"conduct" includes acts, omissions and statements; and

"criminal conduct" means any conduct which —

(a) constitutes one or more criminal offences under the law of the Island; or

(b) is, or corresponds to, conduct which, if it all took place in the Island, would constitute one or more offences under the law of the Island.

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<sup>22</sup> 2001 c.31

<sup>23</sup> 2001 c.1

PART IX

DANGEROUS SUBSTANCES AND HOAXES

**60. Use of noxious substances to harm or intimidate**

- (1) A person who takes any action which —
  - (a) involves the use of a noxious substance or other noxious thing;
  - (b) has an effect falling within subsection (2); and
  - (c) is designed to influence the government or to intimidate the public or a section of the public,

is guilty of an offence.

- (2) Action falls within this subsection if it —
  - (a) causes serious violence against a person anywhere in the world;
  - (b) causes serious damage to real or personal property anywhere in the world;
  - (c) endangers human life or creates a serious risk to the health or safety of the public or a section of the public; or
  - (d) induces in members of the public the fear that the action is likely to endanger their lives or create a serious risk to their health or safety,

but any effect on the person taking the action is to be disregarded.

- (3) A person who —
  - (a) makes a threat that he or another will take any action which constitutes an offence under subsection (1); and
  - (b) intends thereby to induce in a person anywhere in the world the fear that the threat is likely to be carried out,

is guilty of an offence.

- (4) A person guilty of an offence under this section is liable —
  - (a) on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding £5,000 (or both); and
  - (b) on conviction on indictment, to custody for a term not exceeding 14 years or a fine (or both).
- (5) In this section „

"the government" means the government of the Island or of a country or territory other than the Island;

"the public" includes the public of a country other than the Island.

**61. Hoaxes**

- (1) A person is guilty of an offence if he —

- (a) places any thing in any place; or
- (b) sends any thing from one place to another (by post or any other means whatever);

with the intention of inducing in a person anywhere in the world a belief that it is likely —

- (a) to be (or contain) a noxious substance or other noxious thing and thereby endanger human life or create a serious risk to human health; or
- (b) to explode or ignite and thereby cause personal injury or damage to property.

(2) A person is guilty of an offence if he communicates any information which he knows or believes to be false with the intention of inducing in a person anywhere in the world a belief that —

- (a) a noxious substance or other noxious thing is likely to be present (whether at the time the information is communicated or later) and thereby endanger human life or create a serious risk to human health; or
- (b) a bomb or other thing liable to explode or ignite is likely to be present (whether at the time the information is communicated or later).

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

- (a) on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding £5,000 (or both); and
- (b) on conviction on indictment, to custody for a term not exceeding 7 years or a fine (or both).

## **62. Sections 60 and 61: supplementary**

(1) In sections 60 and 61 —

"thing" includes substance; and

"substance" includes any biological agent and any other natural or artificial substance (whatever its form, origin or method of production).

(2) For a person to be guilty of an offence under section 60(3) or 61 it is not necessary for him to have any particular person in mind as the person in who he intends to induce the belief in question.

PART X

MISCELLANEOUS POWERS AND PROCEEDINGS

**63. Police powers**

- (1) A power conferred by virtue of this Act on a constable —
  - (a) is additional to powers which he has at common law or by virtue of any other statutory provision, and
  - (b) shall not be taken to affect those powers.
- (2) A constable may if necessary use reasonable force for the purpose of exercising a power conferred on him under this Act (apart from paragraphs 2 and 3 of Schedule 7).
- (3) Where anything is seized by a constable under a power conferred by virtue of this Act, it may (unless the contrary intention appears) be retained for so long as is necessary in all the circumstances.

**64. Amendment of police powers**

The enactments referred to in Schedule 11 are amended in accordance with that Schedule.

**65. Officers' powers**

Schedule 12 (which makes provision about the exercise of functions by authorised officers for the purposes of Schedule 3 and examining officers for the purposes of Schedule 7) shall have effect.

**66. Powers to stop and search**

- (1) A power to search premises conferred by virtue of this Act shall be taken to include power to search a container.
- (2) A power conferred by virtue of this Act to stop a person includes power to stop a vehicle (other than an aircraft which is airborne).
- (3) A person commits an offence if he fails to stop a vehicle when required to do so by virtue of this section.
- (4) A person guilty of an offence under subsection (3) shall be liable on summary conviction to custody for a term not exceeding 6 months, a fine not exceeding £5,000 or to both.

**67. Consent to prosecution**

- (1) Proceedings for an offence under this Act shall not be instituted without the consent of the Attorney General.

(2) Subsection (1) shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an arrest, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

## **68. Defences**

(1) Subsection (2) applies where in accordance with this Act it is a defence for a person charged with an offence to prove a particular matter.

(2) If the person adduces evidence which is sufficient to raise an issue with respect to the matter, the court or jury shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(3) Subsection (4) applies where in accordance with this Act a court —

- (a) may make an assumption in relation to a person charged with an offence unless a particular matter is proved, or
- (b) may accept a fact as sufficient evidence unless a particular matter is proved.

(4) If evidence is adduced which is sufficient to raise an issue with respect to the matter mentioned in subsection (3)(a) or (b) the court shall treat it as proved unless the prosecution disproves it beyond reasonable doubt.

## **69. Convictions: effect of deproscription**

(1) This section applies where —

- (a) an appeal under section 5 of the UK Act (appeal against refusal of deproscription) has been allowed in respect of an organisation,
- (b) an order has been made under section 3(3)(b) of that Act (order deproscribing an organisation) in respect of the organisation in accordance with an order of the Proscribed Organisations Appeal Commission under section 5(3) of that Act (order to deproscribe),
- (c) a person has been convicted of an offence in respect of the organisation under any of sections 3 to 5, 7 to 11, 14 and 44 of this Act, and
- (d) the activity to which the charge referred took place on or after the date of the refusal to deproscribe against which the appeal under the said section 5 was brought.

(2) A person mentioned in subsection (1)(c) —

- (a) may appeal against the conviction to the Staff of Government Division, and

- (b) the Court shall allow the appeal.
- (3) A person may appeal against a conviction under subsection (2)  
—
  - (a) whether or not he pleaded guilty,
  - (b) whether or not he has already appealed against the conviction, and
  - (c) whether or not he has made an application in respect of the conviction under section 109 of the Summary Jurisdiction Act 1989<sup>24</sup> (case stated).
- (4) An appeal under subsection (2) —
  - (a) must be brought within the period of 28 days beginning with the date on which the order mentioned in subsection (1)(b) comes into force, and
  - (b) shall be treated as an appeal under section 103(1)(b) of the Summary Jurisdiction Act 1989 or, as the case requires, an appeal under section 30 of the Criminal Jurisdiction Act 1993<sup>25</sup>.

**70. Crown servants, regulators etc.**

(1) The Governor in Council may make regulations providing for any of sections 7 to 15 and 27 to apply to persons in the public service of the Crown in right of the Government of the Island.

(2) The Governor in Council may make regulations providing for section 11 not to apply to persons who are in his opinion performing or connected with the performance of regulatory, supervisory, investigative or registration functions of a public nature.

**71. Warrants**

The taking of such action as is specified in a warrant issued under section 5 of the Intelligence Services Act 1994 (an Act of Parliament)<sup>26</sup> shall not be unlawful if —

- (a) in a case where the warrant authorises the taking of action in relation to conduct within subsection (3B) of that section, the warrant was issued with the consent of the Attorney General; or
- (b) in any other case, the warrant was issued after consultation with the Chief Minister or the Minister for Home Affairs.

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<sup>24</sup> 1989 c.15

<sup>25</sup> 1993 c.9

<sup>26</sup> 1994 c.13

**72. Evidence**

- (1) A document which purports to be —
  - (a) a notice or direction given or order made by the Governor in Council for the purposes of any provision of this Act, and
  - (b) signed by the Chief Secretary,

shall be received in evidence and shall, until the contrary is proved, be deemed to have been given or made by the Governor in Council.

- (2) A document bearing a certificate which —
  - (a) purports to be signed by, or on behalf of the Chief Secretary, and
  - (b) states that the document is a true copy of a notice or direction given or order made by the Governor in Council for the purposes of any provision of this Act,

shall be evidence of the document in legal proceedings.

(3) In subsections (1) and (2) a reference to an order does not include a reference to an order which is a public document within the meaning of the Interpretation Act 1976<sup>27</sup>.

PART XI

BRIBERY AND CORRUPTION

**73. Bribery and corruption: foreign officers etc.**

- (1) In the Corruption Act 1986<sup>28</sup> —
  - (a) in section 2 —
    - (i) at the beginning insert "(1) Subject to subsection (2),";
    - (ii) at the end add —

"(2) The presumption in subsection (1) shall not apply in relation to anything which would not be an offence apart from section 2A or section 2B.";
  - (b) after section 2 insert —

**2A. Connection with Island**

For the purposes of section 1 it is immaterial if —

- (a) the principal's affairs or business have no connection with the Island and are conducted in a country or territory outside the Island;

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<sup>27</sup> 1976 c.20

<sup>28</sup> 1986 c.18

- (b) the agent's functions have no connection with the Island and are carried out in a country or territory outside the Island.

**2B. Bribery and corruption committed outside the Island**

- (1) This section applies if —
  - (a) a national of the United Kingdom who is ordinarily resident in the Island or a body incorporated under the law of the Island does anything in a country or territory outside the Island, and
  - (b) the act would, if done in the Island, constitute a corruption offence.
- (2) Where this section applies —
  - (a) the act constitutes the offence concerned, and
  - (b) proceedings for the offence may be taken in the Island.
- (3) In this section "corruption offences" means offences under —
  - (a) section 323 of the Criminal Code 1872;
  - (b) section 1 of this Act.
- (4) For the purposes of this section, a national of the United Kingdom is an individual who is —
  - (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981<sup>29</sup> is a British subject, or
  - (c) a British protected person within the meaning of that Act.";
- (c) in section 4 (interpretation), in the definition of "public body", for paragraph (e) substitute —
  - "(e) any body which exists in a country or territory outside the Island and is equivalent to any body described in paragraphs (a) to (d);
  - (f) any other description of public body (including bodies existing in a country or territory outside the Island)."
- (2) In section 323 of the Criminal Code 1872 —
  - (a) at the beginning insert "(1)";
  - (b) at the end add —
    - "(2) Section 2B of the Corruption Act 1986 applies in respect of this section".

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<sup>29</sup> 1981 c.61

PART XII

TOXINS

**74. Security of pathogens and toxins**

Schedule 13 (security of pathogens and toxins) shall have effect.

PART XIII

GENERAL

**75. Interpretation**

In this Act —

"act" and "action" include omission,

"article" includes substance and any other thing,

"customs officer" has the meaning given in section 184(1) of the Customs and Excise Management Act 1986<sup>30</sup>,

"Department" means the Department of Home Affairs;

"dwelling" means a building or part of a building used as a dwelling, and a vehicle which is habitually stationary and which is used as a dwelling,

"explosive" means —

- (a) an article or substance manufactured for the purpose of producing a practical effect by explosion,
- (b) materials for making an article or substance within paragraph (a),
- (c) anything used or intended to be used for causing or assisting in causing an explosion, and
- (d) a part of anything within paragraph (a) or (c),

"firearm" includes an air gun or air pistol,

"Immigration Act" means the Immigration Act 1971 (an Act of Parliament)<sup>31</sup> as that Act has effect in the Island<sup>32</sup>;

"immigration officer" means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act,

"organisation" includes any association or combination of persons,

"premises" includes any place and in particular includes —

- (a) a vehicle,

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<sup>30</sup> 1986 c.34

<sup>31</sup> 1991 c.77

<sup>32</sup> SI 1991/2630, 1997/275

(b) an offshore installation within the meaning given in section 1 of the Mineral Workings (Offshore Installations) (Isle of Man) Act 1974<sup>33</sup>, and

(c) a tent or moveable structure,

"property" includes property wherever situated and whether real or personal, heritable or moveable, and things in action and other intangible or incorporeal property,

"public place" means a place to which members of the public have or are permitted to have access, whether or not for payment,

"road" has the same meaning as in the Road Traffic Act 1985<sup>34</sup>,

"vehicle", except in sections 37 to 41 and Schedule 7, includes an aircraft, hovercraft, train or vessel.

## **76. Index of defined expressions**

In this Act the expressions listed below are defined by the provisions specified.

<b>Expression</b>	<b>Interpretation provision</b>
Act	Section 75
Action	Section 75
Action taken for the purposes of terrorism	Section 1(5)
Article	Section 75
Authorised officer (in Schedule 3)	Paragraph 19(1) of Schedule 3
Cash (in Schedule 3)	Paragraph 1(2) of Schedule 3
Cordoned area	Section 20
Customs officer	Section 75
Department	Section 75
Dwelling	Section 75
Examining officer (in Schedule 7)	Paragraph 1 of Schedule 7
Explosive	Section 75
Firearm	Section 75
Immigration Act	Section 75
Immigration officer	Section 75
Organisation	Section 75
Premises	Section 75

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<sup>33</sup> 1974 c.33

<sup>34</sup> 1985 c.23

Property	Section 75
Proscribed organisation	Section 2(1)
Public place	Section 75
Road	Section 75
Terrorism	Section 1
Terrorist (in Part V)	Section 29
Terrorist investigation	Section 19
Terrorist property	Section 6
UK Act	Section 2(1)
Vehicle	Section 75
Vehicle (in sections 37 to 40)	Section 41

**77. Orders etc.**

(1) Orders and regulations under this Act may contain savings and transitional provisions.

(2) Orders and regulations made by the Governor in Council, the Department or the Treasury under this Act (other than a freezing order or an order appointing a date for the commencement of a provision of this Act) shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the orders or regulations are laid or at the next following sitting fails to approve them, the orders or regulations shall cease to have effect.

(3) Pending the coming into force of any rules of court under this Act, proceedings under this Act shall be made in such manner and shall be subject to such conditions as the Deemster or court receiving the application shall direct.

**78. Directions**

A direction given under this Act may be varied or revoked by a further direction.

**79. Amendments and repeals**

(1) Schedule 14 (consequential and miscellaneous amendments) shall have effect.

(2) The enactments listed in Schedule 15 are repealed or revoked to the extent specified.

**80. Money**

Any expenditure of the Governor, Council of Ministers, department or statutory board under this Act shall be paid out of the General Revenue of the Island.

**81. Transitional provision**

(1) Where, immediately before the coming into force of section 2(1)(a), a person is being detained by virtue of a provision of the Prevention of Terrorism Act 1990 --

- (a) the provisions of that Act shall continue to apply to him, in place of the corresponding provisions of this Act, until his detention comes to an end, and
- (b) nothing in paragraph 6(3) to (12) of Schedule 14 shall have effect in relation to him during his detention.

(2) Where this Act repeals and re-enacts a provision of the Prevention of Terrorism Act 1990 the repeal and re-enactment shall not, unless the contrary intention appears, affect the continuity of the law.

(3) A reference in this Act or any other enactment or instrument to a provision of this Act shall (so far as the context permits) be taken to include a reference to a corresponding provision repealed by this Act.

(4) Any document made, served or issued after the commencement of this Act which contains a reference to any provision of the Prevention of Terrorism Act 1990 shall, so far as the context permits, be construed as referring to or (as the context may require) including a reference to the corresponding provision of this Act.

(5) Any document made, served or issued after the commencement of this Act which contains a reference to a provision of this Act shall, so far as the context permits, be construed as referring to or (as the context may require) including a reference to the corresponding provision of the Prevention of Terrorism Act 1990.

(6) Section 67 shall apply to the institution of proceedings after commencement of that section whether the offence to which the proceedings relate (which may, by virtue of subsection (3), be an offence under a provision repealed by this Act) is alleged to have been committed before or after commencement of that section.

**82. Short title and commencement**

(1) This Act may be cited as the Anti-Terrorism and Crime Act 2003.

(2) This Act shall come into force on such day as the Department may by order appoint and different days may be so appointed for different provisions and for different purposes.

*Anti-Terrorism and Crime Act 2003*

(3) An order under subsection (2) may make such transitional provisions or savings as the Department may consider necessary in connection with any provision brought into force by the order.

(4) This Act shall remain in operation until 1st March 2008 and shall then expire unless continued in force by an order under subsection (5).

(5) The Council of Ministers may by order provide —

(a) that all or any of those provisions which are for the time being in operation (including any in operation under an order under this paragraph or paragraph (c)) shall continue in operation for a period not exceeding 5 years from the coming into operation of the order;

(b) that all or any of those provisions which are for the time being in operation shall cease to be in operation;

(c) that all or any of those provisions which are not for the time being in operation shall come into operation again and remain in operation for a period not exceeding 5 years from the coming into operation of the order; or

(d) for such miscellaneous, transitional or saving provisions as the Council of Ministers may consider necessary in connection with the exercise of any power in paragraphs (a) to (c).

(6) An order under subsection (5) shall not come into operation unless it is approved by Tynwald.

*Anti-Terrorism and Crime Act 2003*

SCHEDULES

Sections 11(8) & 14(10)

SCHEDULE 1

REGULATED SECTOR AND SUPERVISORY AUTHORITIES

PART 1

REGULATED SECTOR

*Business in the regulated sector*

1. A business is in the regulated sector to the extent that it engages in any of the following activities —

- (a) banking business within the meaning of the Banking Act 1998<sup>35</sup>;
- (b) acceptance by a building society of deposits made by any person (including raising money from members of the society by the issue of shares);
- (c) the business of the National Savings Bank;
- (d) business carried on by a credit union;
- (e) any home-regulated activity carried on by a European institution in respect of which the requirements of paragraph 1 of Schedule 2 to the Banking Co-ordination (Second Council Directive) Regulations 1992 have been complied with;
- (f) investment business within the meaning of the Investment Business Act 1991<sup>36</sup>;
- (g) any activity carried on for the purpose of raising money authorised to be raised under the National Loans Act 1968 (an Act of Parliament)) under the auspices of the Director of Savings;
- (h) any of the activities in points 1 to 12 or 14 of the Annex to the Second Banking Co-ordination Directive, ignoring an activity described in any of sub-paragraphs (a) to (g) above;
- (i) insurance business within the meaning of the Insurance Act 1986<sup>37</sup>.

2. For the purposes of paragraph 1 —

- (a) "building society" has the meaning given by the Industrial and Building Societies Act 1892<sup>38</sup>;
- (b) "credit union" has the meaning given by the Credit Unions Act 1993<sup>39</sup>;
- (c) "home-regulated activity" and "European institution" have the meanings given by the Banking Co-ordination (Second Council Directive) Regulations 1992 (a United Kingdom statutory instrument);
- (d) the Second Banking Co-ordination Directive is the Second Council Directive on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (No. 89/646/EEC).

*Excluded activities*

3. A business is not in the regulated sector to the extent that it engages in any activity prescribed by order made by the Treasury.

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<sup>35</sup> 1998 c.4

<sup>36</sup> 1991 c.18

<sup>37</sup> 1986 c.24

<sup>38</sup> VI p.405

<sup>39</sup> 1993 c.19

*Anti-Terrorism and Crime Act 2003*

PART 2

SUPERVISORY AUTHORITIES

4. (1) Each of the following is a supervisory authority —
- (a) the Financial Supervision Commission;
  - (b) the Insurance and Pensions Authority;
  - (c) the Treasury (subject to sub-paragraph (2));
  - (d) the Isle of Man Office of Fair Trading.
- (2) The Treasury is a supervisory authority in the exercise, in relation to a person carrying on business in the regulated sector, of its functions under the enactments relating to banks, investment business, insurance companies, companies or insolvency.

PART 3

POWER TO AMEND

5. The Treasury may by order amend paragraph 1, 2 or 4.

Section 16(8)

SCHEDULE 2

PART 1

FORFEITURE ORDERS

*Interpretation*

1. In this Part —

"forfeiture order" means an order made by a court in the Island under section 16, and  
"forfeited property" means the money or other property to which a forfeiture order applies.

*Implementation of forfeiture orders*

2. (1) Where a court makes a forfeiture order it may make such other provision as appears to it to be necessary for giving effect to the order, and in particular it may —

- (a) require any of the forfeited property to be paid or handed over to the Chief Registrar or to a constable;
- (b) direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds (if any) to be paid to the Chief Registrar;
- (c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property, to realise it in such manner as the court may direct and to pay the proceeds to the Chief Registrar;
- (d) direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the Chief Registrar to a specified person falling within section 16(7).

(2) A forfeiture order shall 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).

(3) In sub-paragraph (1)(b) and (d) a reference to the proceeds of the sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation.

(4) After making any payment required by virtue of sub-paragraph (1)(d) and paragraph 3(1), the balance of any sums received by the Chief Registrar under a forfeiture order shall be treated for the purposes of section 1 of the Collection of Fines etc. Act 1985 (application of fines etc.) as if it were a fine imposed by a criminal court.

3. (1) A receiver appointed under paragraph 2 shall be entitled to be paid his remuneration and expenses by the Chief Registrar out of the proceeds of the property realised by the receiver and paid to the Chief Registrar under paragraph 2(1)(c).

(2) If and so far as those proceeds are insufficient, the receiver shall be entitled to be paid his remuneration and expenses by the prosecutor.

(3) A receiver appointed under paragraph 2 shall not be liable to any person in respect of any loss or damage resulting from action —

- (a) which he takes in relation to property which is not forfeited property, but which he reasonably believes to be forfeited property,
- (b) which he would be entitled to take if the property were forfeited property, and
- (c) which he reasonably believes that he is entitled to take because of his belief that the property is forfeited property.

(4) Sub-paragraph (3) does not apply in so far as the loss or damage is caused by the receiver's negligence.

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4. (1) The Chief Registrar shall issue a certificate in respect of a forfeiture order if an application is made by —
- (a) the prosecutor in the proceedings in which the forfeiture order was made,
  - (b) the defendant in those proceedings, or
  - (c) a person whom the court heard under section 16(7) before making the order.
- (2) The certificate shall state the extent (if any) to which, at the date of the certificate, effect has been given to the forfeiture order.

*Restraint orders*

5. (1) The High Court may make a restraint order under this paragraph where —
- (a) proceedings have been instituted in the Island for an offence under any of sections 7 to 10,
  - (b) the proceedings have not been concluded,
  - (c) an application for a restraint order is made to the High Court by the prosecutor, and
  - (d) a forfeiture order has been made, or it appears to the High Court that a forfeiture order may be made, in the proceedings for the offence.

(2) The High Court may also make a restraint order under this paragraph where —

- (a) a criminal investigation has been commenced in the Island with regard to an offence under any of sections 7 to 10,
- (b) an application for a restraint order is made to the High Court by the person who the High Court is satisfied will have the conduct of any proceedings for the offence, and
- (c) it appears to the High Court that a forfeiture order may be made in any proceedings for the offence.

(3) A restraint order prohibits a person to whom notice of it is given, subject to any conditions and exceptions specified in the order, from dealing with property in respect of which a forfeiture order has been or could be made in any proceedings referred to in sub-paragraph (1) or (2).

(4) An application for a restraint order may be made to a Deemster in private without notice.

(5) In this paragraph a reference to dealing with property includes a reference to removing the property from the Island.

(6) In this paragraph, "criminal investigation" means an investigation which police officers or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.

6. (1) A restraint order shall provide for notice of it to be given to any person affected by the order.

(2) A restraint order may be discharged or varied by the High Court on the application of a person affected by it.

(3) A restraint order made under paragraph 5(1) shall in particular be discharged on an application under sub-paragraph (2) if the proceedings for the offence have been concluded.

(4) A restraint order made under paragraph 5(2) shall in particular be discharged on an application under sub-paragraph (2) —

- (a) if no proceedings in respect of offences under any of sections 7 to 10 are instituted within such time as the High Court considers reasonable, and
- (b) if all proceedings in respect of offences under any of sections 7 to 10 have been concluded.

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7. (1) A constable may seize any property subject to a restraint order for the purpose of preventing it from being removed from the Island.

(2) Property seized under this paragraph shall be dealt with in accordance with the High Court's directions.

8. (1) The Land Registration Act 1982 —

(a) shall apply in relation to restraint orders as it applies in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognizances, and

(b) shall apply in relation to applications for restraint orders as it applies in relation to other pending land actions.

(2) Where a restraint order is made under paragraph 5(1) or an application for such an order is made, the prosecutor in the proceedings for the offence shall be treated for the purposes of section 62 of the Land Registration Act 1982 (inhibitions) as a person interested in respect of any registered land to which the restraint order or the application for the restraint order relates.

(3) Where a restraint order is made under paragraph 5(2) or an application for such an order is made, the person who the High Court is satisfied will have the conduct of any proceedings for an offence under any of sections 7 to 10 shall be treated for the purposes of section 62 of that Act as a person interested in respect of any registered land to which the restraint order or the application for the restraint order relates.

### *Compensation*

9. (1) This paragraph applies where a restraint order is discharged under paragraph 6(4)(a).

(2) This paragraph also applies where a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 7 to 10 which —

(a) do not result in conviction for an offence under any of those sections,

(b) result in conviction for an offence under any of those sections in respect of which the person convicted is subsequently pardoned by Her Majesty, or

(c) result in conviction for an offence under any of those sections which is subsequently quashed.

(3) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.

(4) The High Court may order compensation to be paid to the applicant if satisfied —

(a) that there was a serious default on the part of a person concerned in the investigation or prosecution of the offence,

(b) that the person in default was or was acting as a member of the police force, or was an officer in the Attorney General's Chambers or was acting on behalf of the Attorney General,

(c) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and

(d) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.

(5) The High Court shall not order compensation to be paid where it appears to it that proceedings for the offence would have been instituted even if the serious default had not occurred.

(6) Compensation payable under this paragraph shall be paid out of the General Revenue of the Island.

10. (1) This paragraph applies where —

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- (a) a forfeiture order or a restraint order is made in or in relation to proceedings for an offence under any of sections 7 to 10, and
  - (b) the proceedings result in a conviction which is subsequently quashed on an appeal under section 69(2).
- (2) A person who had an interest in any property which was subject to the order may apply to the High Court for compensation.
- (3) The High Court may order compensation to be paid to the applicant if satisfied —
- (a) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of the forfeiture order or restraint order, and
  - (b) that, having regard to all the circumstances, it is appropriate to order compensation to be paid.
- (4) Compensation payable under this paragraph shall be paid out of the General Revenue of the Island.

*Proceedings for an offence: timing*

11. (1) For the purposes of this Part proceedings for an offence are instituted —
- (a) when a justice of the peace issues a summons or warrant under section 4 of the Summary Jurisdiction Act 1989 in respect of the offence;
  - (b) when a person is charged with the offence after being taken into custody without a warrant;
  - (c) if an information is preferred by the Attorney General in a case where there has been no committal proceedings, when the information is lodged in the General Registry in accordance with section 2(2) of the Criminal Jurisdiction Act 1993.
- (2) Where the application of sub-paragraph (1) would result in there being more than one time for the institution of proceedings they shall be taken to be instituted at the earliest of those times.
- (3) For the purposes of this Part proceedings are concluded —
- (a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the forfeited property, or
  - (b) when no forfeiture order has been made in those proceedings and there is no further possibility of one being made as a result of an appeal (disregarding any power of a court to grant leave to appeal out of time).

*Enforcement of orders made elsewhere in the British Islands*

12. In the following provisions of this Part of this Schedule —
- "a British Islands order" means an order made in any part of the United Kingdom or in the Islands under a provision of the law of that part or Island corresponding to —
- (a) section 16 ("a British Islands forfeiture order"),
  - (b) paragraph 5 ("a British Islands restraint order"), or
  - (c) any other provision of this Part.
13. (1) Subject to the provisions of this paragraph, a British Islands order shall have effect in the law of the Island.
- (2) But such an order shall be enforced in the Island only in accordance with —
- (a) the provisions of this paragraph, and
  - (b) any provision made by rules of court as to the manner in which, and the conditions subject to which, such orders are to be enforced.

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(3) On an application made to it in accordance with rules of court for registration of a British Islands order, the High Court shall direct that the order shall, in accordance with such rules, be registered in that court.

(4) Rules of court shall also make provision —

(a) for cancelling or varying the registration of a British Islands forfeiture order when effect has been given to it, whether in the Island or elsewhere, in respect of all or, as the case may be, part of the money or other property to which the order applies;

(b) for cancelling or varying the registration of a British Islands restraint order which has been discharged or varied by the court by which it was made.

(5) If a British Islands forfeiture order is registered under this paragraph the High Court shall have, in relation to that order, the same powers as a court has under paragraph 2(1) to give effect to a forfeiture order made by it and —

(a) paragraph 3 shall apply accordingly, and

(b) after making any payment required by virtue of paragraph 2(1)(d) or 3, the balance of any sums received by the Chief Registrar by virtue of an order made under this sub-paragraph shall be paid into the General Revenue of the Island.

(6) If a British Islands restraint order is registered under this paragraph —

(a) paragraphs 7 and 8 shall apply as they apply to a restraint order under paragraph 5, and

(b) the High Court shall have power to make an order under section 35 of the High Court Act 1991 (extended power to order inspection of property, etc.) in relation to proceedings brought or likely to be brought for a British Islands restraint order as if those proceedings had been brought or were likely to be brought in the High Court.

(7) In addition, if a British Islands order is registered under this paragraph —

(a) the High Court shall have, in relation to its enforcement, the same power as if the order had originally been made in the High Court,

(b) proceedings for or with respect to its enforcement may be taken as if the order had originally been made in the High Court, and

(c) proceedings for or with respect to contravention of such an order, whether before or after such registration, may be taken as if the order had originally been made in the High Court.

(8) The High Court may also make such orders or do otherwise as seems to it appropriate for the purpose of —

(a) assisting the achievement in the Island of the purposes of a British Islands order, or

(b) assisting a receiver or other person directed by a British Islands order to sell or otherwise dispose of property.

(9) The following documents shall be received in evidence in the Island without further proof —

(a) a document purporting to be a copy of a British Islands order and to be certified as such by a proper officer of the court by which it was made, and

(b) a document purporting to be a certificate for purposes corresponding to those of paragraph 4 and to be certified by a proper officer of the court concerned.

*Enforcement of orders made in designated countries*

14. (1) The Department may by order make provision for the purpose of enabling the enforcement in the Island of external orders.

(2) An "external order" means an order —

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- (a) which is made in a country or territory designated for the purposes of this paragraph by the order, and
- (b) which makes relevant provision.
- (3) "Relevant provision" means —
  - (a) provision for the forfeiture of terrorist property ("an external forfeiture order"), or
  - (b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country or territory ("an external restraint order").
- (4) An Order under this paragraph may, in particular, include provision —
  - (a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced;
  - (b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 13(1) to (8) in relation to the orders to which that paragraph applies;
  - (c) for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the order.
- (5) An order under this paragraph may also make provision with respect to anything falling to be done on behalf of the Island in a designated country or territory in relation to proceedings in that country or territory for or in connection with the making of an external order.

PART 2

INSOLVENCY

*General*

15. In this Part —
- "ancillary order" means an order made in connection with a forfeiture, other than the forfeiture order,
- "forfeiture order" means —
- (a) an order made in the Island under section 16,
  - (b) a British Islands forfeiture order within the meaning given in paragraph 12, or
  - (c) an external forfeiture order which is enforceable in the Island, by virtue of an order made under paragraph 14,
- "forfeited property" means the money or other property to which a forfeiture order applies, and
- "restraint order" means —
- (a) an order made under paragraph 5,
  - (b) a British Islands restraint order within the meaning given in paragraph 12, or
  - (c) an external restraint order which is enforceable in the Island by virtue of an order made under paragraph 14.

*Protection of creditors against forfeiture*

16. (1) During the period of 6 months beginning with the making of a forfeiture order, the following shall not be finally disposed of under this Schedule —
- (a) the money to which the order applies, and
  - (b) the money which represents any property to which the order applies.

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(2) For the purposes of this paragraph money is finally disposed of under this Schedule when it is paid into the General Revenue of the Island.

17. (1) This paragraph applies where —
- (a) before or after a forfeiture order is made, the commencement of an insolvency occurs in qualifying insolvency proceedings,
  - (b) an insolvency practitioner would, but for the forfeiture order, exercise a function in those proceedings in relation to property to which the forfeiture order applies, and
  - (c) he gives written notice to the relevant officer of the matters referred to in paragraphs (a) and (b) before the end of the period of 6 months beginning with the making of the forfeiture order.
- (2) Sub-paragraph (3) shall apply to —
- (a) the property in relation to which the insolvency practitioner would, but for the forfeiture order, exercise a function as described in sub-paragraph (1)(b), and
  - (b) the proceeds of sale of that property.
- (3) The property —
- (a) shall cease to be subject to the forfeiture order and any ancillary order, and
  - (b) shall be dealt with in the insolvency proceedings as if the forfeiture order had never been made.
- (4) But —
- (a) the property to which sub-paragraph (3) applies is the balance remaining after the relevant officer has exercised his powers under paragraph 20(1), and
  - (b) sub-paragraph (3) shall not take effect in respect of property in relation to which the relevant officer, or any person acting in pursuance of an ancillary order, has incurred obligations until those obligations have been discharged.
- (5) In this paragraph "the commencement of an insolvency" means —
- (a) the making of an adjudication of bankruptcy under the Bankruptcy Code 1892,
  - (b) in the case of the insolvent estate of a deceased person, the making of an insolvency administration order, or
  - (c) in the case of a company —
    - (i) the passing of a resolution for its winding up, or
    - (ii) if no such resolution has been passed, the making of an order by the court for the winding up of the company.
18. (1) Where by virtue of paragraph 17(3) property falls to be dealt with in insolvency proceedings, the Treasury shall be taken to be a creditor in those proceedings to the amount or value of the property.
- (2) That debt —
    - (a) shall rank after the debts of all other creditors, and
    - (b) shall not be paid until they have been paid in full with interest under the relevant provision.
  - (3) In sub-paragraph (2)(b) the "relevant provision" means —
    - (a) in relation to a bankruptcy, section 23(4) of the Bankruptcy Code 1892,
    - (b) any enactment having corresponding effect in relation to the winding up of a company.

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(4) Sub-paragraphs (2) to (3) apply notwithstanding any provision contained in or made under any other enactment.

19. (1) This paragraph applies to property which ceased to be subject to a forfeiture order by virtue of paragraph 17(3) in consequence of the making of an adjudication of bankruptcy.

(2) The property shall again become subject to the forfeiture order and, if applicable, any ancillary order if the adjudication of bankruptcy is annulled.

(3) Where the property is money or has been converted into money —

(a) the relevant court shall make an order specifying property comprised in the estate of the bankrupt to the amount or value of the property, and

(b) the specified property shall become subject to the forfeiture order, and any applicable ancillary order, in place of the property.

(4) In sub-paragraph (3) the "relevant court" means the court which ordered the annulment of the bankruptcy.

### *Expenses incurred in connection with forfeiture*

20. (1) Where money or other property falls to be dealt with in accordance with paragraph 17(3), the relevant officer may —

(a) deduct allowable forfeiture expenses from that money;

(b) retain so much of that property as he considers necessary for the purpose of realising it and deducting allowable forfeiture expenses from the proceeds of realisation.

(2) Where property is delivered up in pursuance of paragraph 17(3) and the relevant officer has not made provision under sub-paragraph (1) for all the allowable forfeiture expenses then —

(a) a person who has incurred allowable forfeiture expenses for which provision has not been made shall have a claim to their value in the insolvency proceedings, and

(b) the expenses in question shall be treated for the purposes of the insolvency proceedings as if they were expenses of those proceedings.

(3) In this paragraph "allowable forfeiture expenses" —

(a) means expenses incurred in relation to the forfeited property by the relevant officer,

(b) means expenses incurred in relation to the forfeited property by a receiver, and administrator or other person appointed by the relevant officer,

(c) includes sums paid or required to be paid under paragraph 2(1)(d).

### *Protection of insolvency practitioners*

21. (1) This paragraph applies where an insolvency practitioner seizes or disposes of property which is subject to a forfeiture order or a restraint order and —

(a) he reasonably believes that he is entitled to do so in the exercise of his functions, and

(b) he would be so entitled if the property were not subject to a forfeiture order or a restraint order.

(2) The insolvency practitioner shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence.

(3) The insolvency practitioner shall have a lien on the property seized or the proceeds of its sale —

(a) for such of his expenses as were incurred in connection with the insolvency proceedings in relation to which the seizure or disposal purported to take place, and

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(b) for so much of his remuneration as may be reasonably assigned for his acting in connection with those proceedings.

(4) Sub-paragraphs (1) to (3) are without prejudice to the generality of any provision contained in the Bankruptcy Acts 1892 to 1988 or in the Companies Acts 1931 to 1993.

### *Insolvency practitioners in the British Islands and designated countries*

22. (1) The Department may by order secure that a British Islands or external insolvency practitioner has the same rights under this Part in relation to property situated in the Island as he would have if he were an insolvency practitioner in the Island.

(2) An order under this paragraph may include —

(a) provision which modifies the rights under this Part which are to be conferred under the order;

(b) provision as to the manner in which the rights conferred under the order are to be exercised;

(c) provision as to the conditions subject to which those rights are to be exercised, including the obtaining of leave from a court;

(d) provision for empowering a court granting such leave to impose such conditions as it thinks fit.

(3) In this paragraph —

"British Islands or external insolvency practitioner" means a person exercising under the insolvency law of a relevant country or territory functions corresponding to those exercised by insolvency practitioners under the insolvency law of the Island,

"relevant country or territory" means —

(a) any part of the United Kingdom,

(b) any of the Channel Islands, or

(c) any country or territory designated as mentioned in paragraph 14.

### *Interpretation*

23. (1) In this Part, "insolvency practitioner" means a person acting in any qualifying insolvency proceedings in the Island as —

(a) a liquidator of a company or partnership,

(b) a trustee in bankruptcy,

(c) an administrator of the insolvent estate of a deceased person, or

(d) a receiver or manager of any property.

(2) In this Part, "qualifying insolvency proceedings" means —

(a) any proceedings under the Companies Act 1931 for the winding up of a company or an unregistered company and includes any voluntary winding up of a company under Part V of that Act,

(b) any proceedings in the Island for the winding up of an insolvent partnership,

(c) any proceedings in bankruptcy, or

(d) any proceedings in relation to the insolvent estate of a deceased person.

(3) In this Part, "the relevant officer" means where the forfeiture order in question is made by a court in the Island, the Chief Registrar and in any other case means a person appointed by the court.

(4) In this Part, references to the proceeds of sale or realisation of property are references to the proceeds after deduction of the costs of sale or realisation.

(5) In this Part, "company" includes a limited liability company and any reference to the provisions of the Companies Acts 1931 to 1993 include references to the corresponding provisions of the Limited Liability Companies Act 1996.

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Section 17

SCHEDULE 3

FORFEITURE OF TERRORIST CASH

PART 1

INTRODUCTORY

*Terrorist cash*

1. (1) This Schedule applies to cash ("terrorist cash") which —
  - (a) is intended to be used for the purposes of terrorism,
  - (b) consists of resources of an organisation which is a proscribed organisation, or
  - (c) is property earmarked as terrorist property.
- (2) "Cash" means —
  - (a) coins and notes in any currency,
  - (b) postal orders,
  - (c) cheques of any kind, including travellers' cheques,
  - (d) bankers' drafts,
  - (e) bearer bonds and bearer shares,

found at any place in the Island.

(3) Cash also includes any kind of monetary instrument which is found at any place in the Island, if the instrument is specified by the Treasury by order.

(4) The powers conferred by this Schedule are exercisable in relation to any cash whether or not any proceedings have been brought for an offence in connection with the cash.

PART 2

SEIZURE AND DETENTION

*Seizure of cash*

2. (1) An authorised officer may seize any cash if he has reasonable grounds for suspecting that it is terrorist cash.
- (2) An authorised officer may also seize cash part of which he has reasonable grounds for suspecting to be terrorist cash if it is not reasonably practicable to seize only that part.

*Detention of seized cash*

3. (1) While the authorised officer continues to have reasonable grounds for his suspicion, cash seized under this Schedule may be detained initially for a period of 48 hours.
- (2) The period for which the cash or any part of it may be detained may be extended by an order made by the High Bailiff; but the order may not authorise the detention of any of the cash —
  - (a) beyond the end of the period of 3 months beginning with the date of the order,
  - (b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order.
- (3) An order under sub-paragraph (2) must provide for notice to be given to persons affected by it.
- (4) An application for an order under sub-paragraph (2) may be made by the Treasury or an authorised officer, and the High Bailiff may make the order if satisfied, in relation to any cash to be further detained, that one of the following conditions is met.

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(5) The first condition is that there are reasonable grounds for suspecting that the cash is intended to be used for the purposes of terrorism and that either —

- (a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in the Island or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

(6) The second condition is that there are reasonable grounds for suspecting that the cash consists of resources of a proscribed organisation and that either —

- (a) its continued detention is justified while investigation is made into whether or not it consists of such resources or consideration is given to bringing (in the Island or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

(7) The third condition is that there are reasonable grounds for suspecting that the cash is property earmarked as terrorist property and that either —

- (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the Island or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

### *Payment of detained cash into an account*

4. (1) If cash is detained under this Schedule for more than 48 hours, it is to be held in an interest-bearing account and the interest accruing on it is to be added to it on its forfeiture or release.

(2) In the case of cash seized under paragraph 2(2), the authorised officer must, on paying it into the account, release so much of the cash then held in the account as is not attributable to terrorist cash.

(3) Sub-paragraph (1) does not apply if the cash is required as evidence of an offence or evidence in proceedings under this Schedule.

### *Release of detained cash*

5. (1) This paragraph applies while any cash is detained under this Schedule.

(2) The High Bailiff may direct the release of the whole or any part of the cash if satisfied, on an application by the person from whom it was seized, that the conditions in paragraph 3 for the detention of cash are no longer met in relation to the cash to be released.

(3) An authorised officer may, after notifying the High Bailiff, release the whole or any part of the cash if satisfied that the detention of the cash to be released is no longer justified.

- (4) But cash is not to be released —
  - (a) if an application is made for its forfeiture under paragraph 6, or for its release under paragraph 9, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded,
  - (b) if (in the Island or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until those proceedings are concluded.

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## PART 3

### FORFEITURE

#### *Forfeiture*

6. (1) While cash is detained under this Schedule, an application for the forfeiture of the whole or any part of it may be made to the High Bailiff by the Treasury or an authorised officer.

(2) The High Bailiff may order the forfeiture of the cash or any part of it if satisfied that the cash or part is terrorist cash.

(3) In the case of property earmarked as terrorist property which belongs to joint tenants one of whom is an excepted joint owner, the order may not apply to so much of it as the High Bailiff thinks is attributable to the excepted joint owner's share.

(4) An excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him) be earmarked; and references to his share of the earmarked property are to so much of the property as would have been his if the joint tenancy had been severed.

#### *Appeal against forfeiture*

7. (1) Any party to proceedings in which an order is made under paragraph 6 ("a forfeiture order") who is aggrieved by the order may appeal to the High Court.

(2) An appeal under sub-paragraph (1) must be made —

(a) within the period of 30 days beginning with the date on which the order is made, or

(b) if sub-paragraph (6) applies, before the end of the period of 30 days beginning with the date on which the order under section 3(3)(b) of the UK Act comes into force.

(3) The appeal is to be by way of a rehearing.

(4) The High Court may make any order it thinks appropriate.

(5) If the High Court upholds the appeal, it may order the release of the cash.

(6) Where a successful application for a forfeiture order relies (wholly or partly) on the fact that an organisation is proscribed, this sub-paragraph applies if —

(a) a deproscription appeal under section 5 of the UK Act (appeal against refusal of deproscription) is allowed in respect of the organisation,

(b) an order is made under section 3(3)(b) of the UK Act (order deproscribing an organisation) in respect of the organisation in accordance with an order of the Proscribed Organisations Appeal Commission under section 5(4) of that Act (order to deproscribe) (and, 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) of that Act), and

(c) the forfeited cash was seized under this Schedule on or after the date of the refusal to deproscribe against which the appeal under section 5 of the UK Act was brought.

#### *Application of forfeited cash*

8. Cash forfeited under this Schedule, and any accrued interest on it is to be paid into the General Revenue of the Island but it is not to be paid in —

(a) before the end of the period within which an appeal under paragraph 7 may be made, or

(b) if a person appeals under that paragraph, before the appeal is determined or otherwise disposed of.

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PART 4

MISCELLANEOUS

*Victims*

9. (1) A person who claims that any cash detained under this Schedule, or any part of it, belongs to him may apply to High Bailiff for the cash or part to be released to him.

(2) The application may be made in the course of proceedings under paragraph 3 or 6 or at any other time.

(3) If it appears to the High Bailiff that —

(a) the applicant was deprived of the cash claimed, or of property which it represents, by criminal conduct,

(b) the property he was deprived of was not, immediately before he was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property, and

(c) the cash claimed belongs to him,

the High Bailiff must order the cash to be released to the applicant.

*Compensation*

10. (1) If no forfeiture order is made in respect of any cash detained under this Schedule, the person to whom the cash belongs or from whom it was seized may make an application to the High Bailiff for compensation.

(2) If, for any period after the initial detention of the cash for 48 hours, the cash was not held in an interest-bearing account while detained, the High Bailiff may order an amount of compensation to be paid to the applicant.

(3) The amount of compensation to be paid under sub-paragraph (2) is the amount the High Bailiff thinks would have been earned in interest in the period in question if the cash had been held in an interest-bearing account.

(4) If the High Bailiff is satisfied that, taking account of any interest to be paid under this Schedule or any amount to be paid under sub-paragraph (2), the applicant has suffered loss as a result of the detention of the cash and that the circumstances are exceptional, the High Bailiff may order compensation (or additional compensation) to be paid to him.

(5) The amount of compensation to be paid under sub-paragraph (4) is the amount the High Bailiff thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

(6) The compensation is to be paid by the Treasury out of the General Revenue of the Island.

(7) If a forfeiture order is made in respect only of a part of any cash detained under this Schedule, this paragraph has effect in relation to the other part.

(8) This paragraph does not apply if the High Bailiff makes an order under paragraph 9.

PART 5

PROPERTY EARMARKED AS TERRORIST PROPERTY

*Property obtained through terrorism*

11. (1) A person obtains property through terrorism if he obtains property by or in return for acts of terrorism, or acts carried out for the purposes of terrorism.

(2) In deciding whether any property was obtained through terrorism —

(a) it is immaterial whether or not any money, goods or services were provided in order to put the person in question in a position to carry out the acts,

(b) it is not necessary to show that the act was of a particular kind if it is shown that the property was obtained through acts of one of a number of kinds,

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each of which would have been an act of terrorism, or an act carried out for the purposes of terrorism.

### *Property earmarked as terrorist property*

12. (1) Property obtained through terrorism is earmarked as terrorist property.
- (2) But if property obtained through terrorism has been disposed of (since it was so obtained), it is earmarked as terrorist property only if it is held by a person into whose hands it may be followed.
- (3) Earmarked property may be followed into the hands of a person obtaining it on a disposal by —
- (a) the person who obtained the property through terrorism, or
  - (b) a person into whose hands it may (by virtue of this sub-paragraph) be followed.

### *Tracing property*

13. (1) Where property obtained through terrorism ("the original property") is or has been earmarked as terrorist property, property which represents the original property is also earmarked.
- (2) If a person enters into a transaction by which —
- (a) he disposes of the earmarked property, whether the original property or property which (by virtue of this Part) represents the original property, and
  - (b) he obtains other property in place of it,
- the other property represents the original property.
- (3) If a person disposes of earmarked property which represents the original property, the property may be followed into the hands of the person who obtains it (and it continues to represent the original property).

### *Mixing property*

14. (1) Sub-paragraph (2) applies if a person's property which is earmarked as terrorist property is mixed with other property (whether his property or another's).
- (2) The portion of the mixed property which is attributable to the property earmarked as terrorist property represents the property obtained through terrorism.
- (3) Property earmarked as terrorist property is mixed with other property if (for example) it is used —
- (a) to increase funds held in a bank account,
  - (b) in part payment for the acquisition of an asset,
  - (c) for the restoration or improvement of land,
  - (d) by a person holding a leasehold interest in the property to acquire the freehold.

### *Accruing profits*

15. (1) This paragraph applies where a person who has property earmarked as terrorist property obtains further property consisting of profits accruing in respect of the earmarked property.
- (2) The further property is to be treated as representing the property obtained through terrorism.

### *General exceptions*

16. (1) If —
- (a) a person disposes of property earmarked as terrorist property, and
  - (b) the person who obtains it on the disposal does so in good faith, for value and without notice that it was earmarked,

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the property may not be followed into that person's hands and, accordingly, it ceases to be earmarked.

- (2) If —
- (a) in pursuance of a judgment in civil proceedings (whether in the Island or elsewhere), the defendant makes a payment to the claimant or the claimant otherwise obtains property from the defendant,
- (b) the claimant's claim is based on the defendant's criminal conduct, and
- (c) apart from this sub-paragraph, the sum received, or the property obtained, by the claimant would be earmarked as terrorist property,

the property ceases to be earmarked.

- (3) If —
- (a) a payment is made to a person in pursuance of a compensation order under Schedule 6 to the Criminal Law Act 1981, and
- (b) apart from this sub-paragraph, the sum received would be earmarked as terrorist property,

the property ceases to be earmarked.

- (4) If —
- (a) a payment is made to a person in pursuance of a restitution order under section 30 of the Theft Act 1981 or a person otherwise obtains any property in pursuance of such an order, and
- (b) apart from this sub-paragraph, the sum received, or the property obtained, would be earmarked as terrorist property,

the property ceases to be earmarked.

- (5) If —
- (a) in pursuance of an order made by the court under section 13(4) of the Investment Business Act 1991 (restitution orders), an amount is paid to or distributed among any persons in accordance with the court's directions, and
- (b) apart from this sub-paragraph, the sum received by them would be earmarked as terrorist property,

the property ceases to be earmarked.

- (6) If —
- (a) in pursuance of an order made by the court under section 28B(3) of the Insurance Act 1986 (restitution orders), an amount is paid to or distributed among any persons in accordance with the court's directions, and
- (b) apart from this sub-paragraph, the sum received by them would be earmarked as terrorist property,

the property ceases to be earmarked.

- (7) Where —
- (a) a person enters into a transaction to which paragraph 13(2) applies, and
- (b) the disposal is one to which sub-paragraph (1) applies,

this paragraph does not affect the question whether (by virtue of paragraph 13(2)) any property obtained on the transaction in place of the property disposed of is earmarked.

PART 6

INTERPRETATION

*Property*

- 17. (1) Property is all property wherever situated and includes —
- (a) money,

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- (b) all forms of property, real or personal, heritable or moveable,
- (c) things in action and other intangible or incorporeal property.
- (2) Any reference to a person's property (whether expressed as a reference to the property he holds or otherwise) is to be read as follows.
  - (3) In relation to land, it is a reference to any interest which he holds in the land.
  - (4) In relation to property other than land, it is a reference —
    - (a) to the property (if it belongs to him), or
    - (b) to any other interest which he holds in the property.

*Obtaining and disposing of property*

18. (1) References to a person disposing of his property include a reference —
- (a) to his disposing of a part of it, or
  - (b) to his granting an interest in it, (or to both);

and references to the property disposed of are to any property obtained on the disposal.

(2) If a person grants an interest in property of his which is earmarked as terrorist property, the question whether the interest is also earmarked is to be determined in the same manner as it is on any other disposal of earmarked property.

(3) A person who makes a payment to another is to be treated as making a disposal of his property to the other, whatever form the payment takes.

(4) Where a person's property passes to another under a will or intestacy or by operation of law, it is to be treated as disposed of by him to the other.

(5) A person is only to be treated as having obtained his property for value in a case where he gave unexecuted consideration if the consideration has become executed consideration.

*General interpretation*

19. (1) In this Schedule —
- "authorised officer" means a constable, a customs officer, an immigration officer or a person authorised by the Attorney General,
  - "cash" has the meaning given by paragraph 1,
  - "criminal conduct" means conduct which constitutes an offence in the Island, or would constitute an offence in the Island if it occurred there,
  - "forfeiture order" has the meaning given by paragraph 7,
  - "interest", in relation to land, means any legal estate and any equitable interest or power,
  - "interest", in relation to property other than land, includes any right (including a right to possession of the property),
  - "part", in relation to property, includes a portion,
  - "property obtained through terrorism". has the meaning given by paragraph 11,
  - "property earmarked as terrorist property" is to be read in accordance with Part 5,
  - "terrorist cash" has the meaning given by paragraph 1,
  - "value" means market value.

(2) Paragraphs 17 and 18 and the following provisions apply for the purposes of this Schedule.

(3) For the purpose of deciding whether or not property was earmarked as terrorist property at any time (including times before commencement), it is to be assumed that this Schedule was in force at that and any other relevant time.

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(4) References to anything done or intended to be done for the purposes of terrorism include anything done or intended to be done for the benefit of a proscribed organisation.

(5) An organisation's resources include any cash which is applied or made available, or is to be applied or made available, for use by the organisation.

(6) Proceedings against any person for an offence are concluded when —

- (a) the person is convicted or acquitted,
- (b) the prosecution is discontinued, or
- (c) the jury is discharged without a finding.

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Section 18

SCHEDULE 4

ACCOUNT MONITORING ORDERS

*Introduction*

1. (1) In this Schedule —  
"the court" is the High Court;  
"an appropriate officer" is a police officer or a person authorised in writing by the Attorney General;  
"financial institution" means —
  - (a) a person who carries on a banking business within the meaning of the Banking Act 1998;
  - (b) a building society within the meaning of the Industrial and Building Societies Act 1892;
  - (c) a credit union within the meaning of the Credit Unions Act 1993;
  - (d) a person who carries on investment business within the meaning of the Investment Business Act 1991;
  - (e) the National Savings Bank;
  - (f) a person who carries out any activity for the purpose of raising money authorised to be raised under the National Loans Act 1968 (an Act of Parliament)) under the auspices of the Director of Savings;
  - (g) a European institution carrying on a home-regulated activity within the meaning of the Second Council on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions;
  - (h) a person carrying out an activity specified in any of points 1 to 12 and 14 of the Annex to that Directive, ignoring an activity described in any of sub-paragraphs (a) to (g) above;
  - (i) insurance business within the meaning of the Insurance Act 1986.
- (2) The Treasury may by order amend sub-paragraph (1).

*Account monitoring orders*

2. (1) A Deemster may, on an application made to him by an appropriate officer, make an account monitoring order if he is satisfied that —
  - (a) the order is sought for the purposes of a terrorist investigation,
  - (b) the tracing of terrorist property is desirable for the purposes of the investigation, and
  - (c) the order will enhance the effectiveness of the investigation.
- (2) The application for an account monitoring order must state that the order is sought against the financial institution specified in the application in relation to information which —
  - (a) relates to an account or accounts held at the institution by the person specified in the application (whether solely or jointly with another), and
  - (b) is of the description so specified.
- (3) The application for an account monitoring order may specify information relating to —
  - (a) all accounts held by the person specified in the application for the order at the financial institution so specified,
  - (b) a particular description, or particular descriptions, of accounts so held, or
  - (c) a particular account, or particular accounts, so held.

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(4) An account monitoring order is an order that the financial institution specified in the application for the order must —

- (a) for the period specified in the order,
- (b) in the manner so specified,
- (c) at or by the time or times so specified, and
- (d) at the place or places so specified,

provide information of the description specified in the application to an appropriate officer.

(5) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

### *Applications*

3. (1) An application for an account monitoring order may be made ex parte to a Deemster in private.

(2) The description of information specified in an application for an account monitoring order may be varied by the person who made the application.

(3) The description of information specified in the application may be varied by any appropriate officer.

### *Discharge or variation*

4. (1) An application to discharge or vary an account monitoring order may be made to the court by —

- (a) any appropriate officer;
- (b) any person affected by the order.

(2) The court —

- (a) may discharge the order;
- (b) may vary the order.

### *Rules of court*

5. Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to account monitoring orders.

### *Effect of orders*

6. (1) An account monitoring order has effect as if it were an order of the High Court.

(2) An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed).

### *Statements*

7. (1) A statement made by a financial institution in response to an account monitoring order may not be used in evidence against it in criminal proceedings.

(2) But sub-paragraph (1) does not apply —

- (a) in the case of proceedings for contempt of court;
- (b) in the case of proceedings under section 16 where the financial institution has been convicted of an offence under any of sections 7 to 10;
- (c) on a prosecution for an offence where, in giving evidence, the financial institution makes a statement inconsistent with the statement mentioned in sub-paragraph (1).

(3) A statement may not be used by virtue of sub-paragraph (2)(c) against a financial institution unless —

- (a) evidence relating to it is adduced, or
- (b) a question relating to it is asked,

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by or on behalf of the financial institution in the proceedings arising out of the prosecution.

Section 24

SCHEDULE 5

TERRORIST INVESTIGATIONS: INFORMATION

PART I

*Searches*

1. (1) A constable may apply to a justice of the peace for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.
  - (2) A warrant under this paragraph shall authorise any constable —
    - (a) to enter the premises specified in the warrant,
    - (b) to search the premises and any person found there, and
    - (c) to seize and retain any relevant material which is found on a search under paragraph (b).
  - (3) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that —
    - (a) it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and
    - (b) it must be seized in order to prevent it from being concealed, lost, damaged, altered or destroyed.
  - (4) A warrant under this paragraph shall not authorise —
    - (a) the seizure and retention of items subject to legal privilege, or
    - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
  - (5) Subject to paragraph 2, a justice may grant an application under this paragraph if satisfied —
    - (a) that the warrant is sought for the purposes of a terrorist investigation,
    - (b) that there are reasonable grounds for believing that there is material on premises specified in the application which is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation and which does not consist of or include excepted material (within the meaning of paragraph 4), and
    - (c) that the issue of a warrant is likely to be necessary in the circumstances of the case.
2. (1) This paragraph applies where an application is made under paragraph 1 and —
  - (a) the application is made by a police officer of at least the rank of chief inspector,
  - (b) the application does not relate to residential premises, and
  - (c) 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) and (b).
  - (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 within the period of 24 hours beginning with the time when the warrant is issued.
  - (4) For the purpose of sub-paragraph (1) "residential premises" means any premises which the officer making the application has reasonable grounds for believing are used wholly or mainly as a dwelling.

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3. (1) Subject to sub-paragraph (2), a police officer of at least the rank of Chief Inspector may by a written authority signed by him authorise a search of specified premises which are wholly or partly within a cordoned area.
- (2) A constable who is not of the rank required by sub-paragraph (1) may give an authorisation under this paragraph if he considers it necessary by reason of urgency.
- (3) An authorisation under this paragraph shall authorise any constable —
- (a) to enter the premises specified in the authority,
- (b) to search the premises and any person found there, and
- (c) to seize and retain any relevant material (within the meaning of paragraph 1(3)) which is found on a search under paragraph (b).
- (4) The powers under sub-paragraph (3)(a) and (b) may be exercised —
- (a) on one or more occasions, and
- (b) at any time during the period when the designation of the cordoned area under section 20 has effect.
- (5) An authorisation under this paragraph shall not authorise —
- (a) the seizure and retention of items subject to legal privilege, or
- (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
- (6) An authorisation under this paragraph shall not be given unless the person giving it has reasonable grounds for believing that there is material to be found on the premises which —
- (a) is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and
- (b) does not consist of or include excepted material.
- (7) A person commits an offence if he intentionally obstructs a search under this paragraph.
- (8) A person guilty of an offence under sub-paragraph (7) shall be liable on summary conviction to custody for a term not exceeding 3 months, or to a fine not exceeding £2,500, or to both.

*Excepted material*

4. In this Part
- (a) "excluded material" has the meaning given by section 14 of the Police Powers and Procedures Act 1998<sup>40</sup>,
- (b) "items subject to legal privilege" has the meaning given by section 13 of that Act, and
- (c) "special procedure material" has the meaning given by section 17 of that Act;

and material is "excepted material" if it falls within any of paragraphs (a) to (c).

*Excluded and special procedure material: production & access*

5. (1) A constable may apply to a Deemster for an order under this paragraph for the purposes of a terrorist investigation.
- (2) An application for an order shall relate to particular material, or material of a particular description, which consists of or includes excluded material or special procedure material.
- (3) An order under this paragraph may require a specified person —

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<sup>40</sup> 1998 c.9

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- (a) to produce to a constable within a specified period for seizure and retention any material which he has in his possession, custody or power and to which the application relates;
- (b) to give a constable access to any material of the kind mentioned in paragraph (a) within a specified period;
- (c) to state to the best of his knowledge and belief the location of material to which the application relates if it is not in, and it will not come into, his possession, custody or power within the period specified under paragraph (a) or (b).
- (4) For the purposes of this paragraph —
  - (a) an order may specify a person only if he appears to the Deemster to have in his possession, custody or power any of the material to which the application relates, and
  - (b) a period specified in an order shall be the period of 7 days beginning with the date of the order unless it appears to the Deemster that a different period would be appropriate in the particular circumstances of the application.
- (5) Where a Deemster makes an order under sub-paragraph (3)(b) in relation to material on any premises, he may, on the application of a constable, order any person who appears to the Deemster to be entitled to grant entry to the premises to allow any constable to enter the premises to obtain access to the material.
- 6. (1) A Deemster may grant an application under paragraph 5 if satisfied —
  - (a) that the material to which the application relates consists of or includes excluded material or special procedure material,
  - (b) that it does not include items subject to legal privilege, and
  - (c) that the conditions in sub-paragraphs (2) and (3) are satisfied in respect of that material.
  - (2) The first condition is that —
    - (a) the order is sought for the purposes of a terrorist investigation, and
    - (b) there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.
  - (3) The second condition is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or that access to it should be given having regard —
    - (a) to the benefit likely to accrue to a terrorist investigation if the material is obtained, and
    - (b) to the circumstances under which the person concerned has any of the material in his possession, custody or power.
- 7. (1) An order under paragraph 5 may be made in relation to —
  - (a) material consisting of or including excluded or special procedure material which is expected to come into existence within the period of 28 days beginning with the date of the order;
  - (b) a person who the Deemster thinks is likely to have any of the material to which the application relates in his possession, custody or power within that period.
  - (2) Where an order is made under paragraph 5 by virtue of this paragraph, paragraph 5(3) shall apply with the following modifications —
    - (a) the order shall require the specified person to notify a named constable as soon as is reasonably practicable after any material to which the application relates comes into his possession, custody or power,

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- (b) the reference in paragraph 5(3)(a) to material which the specified person has in his possession, custody or power shall be taken as a reference to the material referred to in paragraph (a) above which comes into his possession, custody or power, and
- (c) the reference in paragraph 5(3)(c) to the specified period shall be taken as a reference to the period of 28 days beginning with the date of the order.
- (3) Where an order is made under paragraph 5 by virtue of this paragraph, paragraph 5(4) shall not apply and the order —
  - (a) may only specify a person falling within sub-paragraph (1)(b), and
  - (b) shall specify the period of 7 days beginning with the date of notification required under sub-paragraph (2)(a) unless it appears to the Deemster that a different period would be appropriate in the particular circumstances of the application.
- 8. (1) An order under paragraph 5 —
  - (a) shall not confer any right to production of, or access to, items subject to legal privilege, and
  - (b) shall have effect notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.
  - (2) Where the material to which an application under paragraph 5 relates consists of information contained in a computer —
    - (a) an order under paragraph 5(3)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, and
    - (b) an order under paragraph 5(3)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.
- 9. (1) An order of a Deemster under paragraph 5 shall have effect as if it were an order of the High Court.
  - (2) High Court Rules may make provision about proceedings relating to an order under paragraph 5.
  - (3) In particular, the rules may make provision about the variation or discharge of an order.

*Excluded or special procedure material: search*

- 10. (1) A constable may apply to a Deemster for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.
  - (2) A warrant under this paragraph shall authorise any constable —
    - (a) to enter the premises specified in the warrant,
    - (b) to search the premises and any person found there, and
    - (c) to seize and retain any relevant material which is found on a search under paragraph (b).
  - (3) A warrant under this paragraph shall not authorise —
    - (a) the seizure and retention of items subject to legal privilege;
    - (b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
  - (4) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.
- 11. (1) A Deemster may grant an application under paragraph 10 if satisfied that an order made under paragraph 5 in relation to material on the premises specified in the application has not been complied with.

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(2) A Deemster may also grant an application under paragraph 10 if satisfied that there are reasonable grounds for believing that —

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

(3) The first condition is that —

- (a) the warrant is sought for the purposes of a terrorist investigation, and
- (b) the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(4) The second condition is that it is not appropriate to make an order under paragraph 5 in relation to the material because —

- (a) it is not practicable to communicate with any person entitled to produce the material,
- (b) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated, or
- (c) a terrorist investigation may be seriously prejudiced unless a constable can secure immediate access to the material.

### *Explanations*

12. (1) A constable may apply to a Deemster for an order under this paragraph requiring any person specified in the order to provide an explanation of any material —

- (a) seized in pursuance of a warrant under paragraph 1 or 10, or
- (b) produced or made available to a constable under paragraph 5.

(2) An order under this paragraph shall not require any person to disclose any information which he would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court.

(3) But a lawyer may be required to provide the name and address of his client.

(4) A statement by a person in response to a requirement imposed by an order under this paragraph —

- (a) may be made orally or in writing, and
- (b) may be used in evidence against him only on a prosecution for an offence under paragraph 13.

(5) Paragraph 9 shall apply to orders under this paragraph as it applies to orders under paragraph 5.

13. (1) A person commits an offence if, in purported compliance with an order under paragraph 12, he —

- (a) makes a statement which he knows to be false or misleading in a material particular, or
- (b) recklessly makes a statement which is false or misleading in a material particular.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

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

(b) on summary conviction, to custody for a term not exceeding 6 months, to a fine not exceeding £5,000 or to both.

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### *Urgent cases*

14. (1) A police officer of at least the rank of chief inspector may by a written order signed by him give to any constable the authority which may be given by a search warrant under paragraph 1 or 10.

(2) An order shall not be made under this paragraph unless the officer has reasonable grounds for believing —

- (a) that the case is one of great emergency, and
- (b) that immediate action is necessary.

(3) Where an order is made under this paragraph particulars of the case shall be notified as soon as is reasonably practicable to the Chief Minister.

(4) A person commits an offence if he intentionally obstructs a search under this paragraph.

(5) A person guilty of an offence under sub-paragraph (4) shall be liable on summary conviction to custody for a term not exceeding 6 months, or a fine not exceeding £2,500 or to both.

15. (1) If a police officer of at least the rank of chief inspector has reasonable grounds for believing that the case is one of great emergency he may by a written notice signed by him require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under paragraph 14.

(2) Sub-paragraphs (2) to (4) of paragraph 12 and paragraph 13 shall apply to a notice under this paragraph as they apply to an order under paragraph 12.

(3) A person commits an offence if he fails to comply with a notice under this paragraph.

(4) It is a defence for a person charged with an offence under sub-paragraph (3) to show that he had a reasonable excuse for his failure.

(5) A person guilty of an offence under sub-paragraph (3) shall be liable on summary conviction to custody for a term not exceeding 6 months, or a fine not exceeding £5,000, or to both.

### *Supplementary*

16. For the purposes of sections 24 and 25 of the Police Powers and Procedures Act 1998 (seized material: access, copying and retention) —

- (a) a terrorist investigation shall be treated as an investigation of or in connection with an offence, and
- (b) material produced in pursuance of an order under paragraph 5 shall be treated as if it were material seized by a constable.

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Section 25

SCHEDULE 6

FINANCIAL INFORMATION

*Orders*

1. (1) Where an order has been made under this paragraph in relation to a terrorist investigation, a constable named in the order may require a financial institution to which the order applies to provide customer information for the purposes of the investigation.
  - (2) The order may provide that it applies to —
    - (a) all financial institutions,
    - (b) a particular description, or particular descriptions, of financial institutions, or
    - (c) a particular financial institution or particular financial institutions.
  - (3) The information shall be provided —
    - (a) in such manner and within such time as the constable may specify, and
    - (b) notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.
  - (4) An institution which fails to comply with a requirement under this paragraph shall be guilty of an offence.
  - (5) It is a defence for an institution charged with an offence under sub-paragraph (4) to prove —
    - (a) that the information required was not in the institution's possession, or
    - (b) that it was not reasonably practicable for the institution to comply with the requirement.
  - (6) An institution guilty of an offence under sub-paragraph (4) shall be liable on summary conviction to a fine not exceeding £5,000.

*Procedure*

2. An order under paragraph 1 may be made only on the application of a police officer of at least the rank of chief inspector.
3. An order under paragraph 1 may be made only by a Deemster.
4. Rules of court may make provision about the procedure for an application under paragraph 1.

*Criteria for making order*

5. An order under paragraph 1 may be made only if the Deemster is satisfied that —
  - (a) the order is sought for the purposes of a terrorist investigation,
  - (b) the tracing of terrorist property is desirable for the purposes of the investigation, and
  - (c) the order will enhance the effectiveness of the investigation.

*Financial institution*

6. (1) In this Schedule "financial institution" means —
  - (a) a person carrying on a banking business (within the meaning of the Banking Act 1998),
  - (b) a building society (within the meaning of section 7 of the Industrial and Building Societies Act 1892),
  - (c) a credit union (within the meaning of the Credit Unions Act 1993),
  - (d) a person carrying on investment business (within the meaning of the Investment Business Act 1991),

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- (e) the National Savings Bank,
  - (f) a person who carries out an activity for the purposes of raising money authorised to be raised under the National Loans Act 1968 (an Act of Parliament) under the auspices of the Director of National Savings,
  - (g) a European institution carrying on a home regulated activity (within the meaning of the Second Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions),
  - (h) a person carrying out an activity specified in any of points 1 to 12 and 14 of the Annex to that Directive, and
  - (i) a person carrying on insurance business (within the meaning of the Insurance Act 1986.
- (2) The Treasury may by order provide for a class of person —
- (a) to be a financial institution for the purposes of this Schedule, or
  - (b) to cease to be a financial institution for the purposes of this Schedule.
- (3) An institution which ceases to be a financial institution for the purposes of this Schedule (whether by virtue of sub-paragraph (2)(b) or otherwise) shall continue to be treated as a financial institution for the purposes of any requirement under paragraph 1 to provide customer information which relates to a time when the institution was a financial institution.

*Customer information*

7. (1) In this Schedule "customer information" means (subject to sub-paragraph (3)) —
- (a) information whether a business relationship exists or existed between a financial institution and a particular person ("a customer"),
  - (b) a customer's account number,
  - (c) a customer's full name,
  - (d) a customer's date of birth,
  - (e) a customer's address or former address,
  - (f) the date on which a business relationship between a financial institution and a customer begins or ends,
  - (g) any evidence of a customer's identity obtained by a financial institution in pursuance of or for the purposes of any legislation relating to money laundering, and
  - (h) the identity of a person sharing an account with a customer.
- (2) For the purposes of this Schedule there is a business relationship between a financial institution and a person if (and only if) —
- (a) there is an arrangement between them designed to facilitate the carrying out of frequent or regular transactions between them, and
  - (b) the total amount of payments to be made in the course of the arrangement is neither known nor capable of being ascertained when the arrangement is made.
- (3) The Treasury may by order provide for a class of information —
- (a) to be customer information for the purposes of this Schedule, or
  - (b) to cease to be customer information for the purposes of this Schedule.

*Offence by body corporate, etc.*

8. (1) This paragraph applies where an offence under paragraph 1(3) is committed by an institution and it is proved that the offence —

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- (a) was committed with the consent or connivance of an officer of the institution, or
- (b) was attributable to neglect on the part of an officer of the institution.
- (2) The officer, as well as the institution, shall be guilty of the offence.
- (3) Where an individual is convicted of an offence under paragraph 1(3) by virtue of this paragraph, he shall be liable on summary conviction to custody for a term not exceeding 6 months, or a fine not exceeding £5,000 or to both.
- (4) In the case of an institution which is a body corporate, in this paragraph "officer" includes —
  - (a) a director, manager or secretary,
  - (b) a person purporting to act as a director, manager or secretary,
  - (c) if the affairs of the body are managed by its members, a member, and
  - (d) in relation to a limited liability company constituted under the Limited Liability Companies Act 1996, a member, the company's manager, or the registered agent.
- (5) In the case of an institution which is a partnership, in this paragraph "officer" means a partner.
- (6) In the case of an institution which is an unincorporated association (other than a partnership), in this paragraph "officer" means a person concerned in the management or control of the association.

#### *Self-incrimination*

9. (1) Customer information provided by a financial institution under this Schedule shall not be admissible in evidence in criminal proceedings against the institution or any of its officers or employees.
- (2) Sub-paragraph (1) shall not apply in relation to proceedings for an offence under paragraph 1(4) (including proceedings brought by virtue of paragraph 8).

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Section 28(1)

SCHEDULE 7  
PORT CONTROLS

*Interpretation*

1. (1) In this Schedule "examining officer" means any of the following —
  - (a) a constable,
  - (b) an immigration officer, and
  - (c) a customs officer.
- (2) In this Schedule —

"captain" means master of a ship or commander of an aircraft,  
"port" includes an airport and a hoverport,  
"ship" includes a hovercraft, and  
"vehicle" includes a train.
- (3) A place shall be treated as a port for the purposes of this Schedule in relation to a person if an examining officer believes that the person —
  - (a) has gone there for the purpose of embarking on a ship or aircraft, or
  - (b) has arrived there on disembarking from a ship or aircraft.

*Power to stop, question and detain*

2. (1) An examining officer may question a person to whom this paragraph applies for the purpose of determining whether he appears to be a person falling within section 29(1)(b).
  - (2) This paragraph applies to a person if —
    - (a) he is at a port, and
    - (b) the examining officer believes that the person's presence at the port or in the area is connected with his entering or leaving the Island or his travelling by air within the Island.
  - (3) This paragraph also applies to a person on a ship or aircraft which has arrived at any place in the Island (whether from within or outside the Island).
  - (4) An examining officer may exercise his powers under this paragraph whether or not he has grounds for suspecting that a person falls within section 29(1)(b).
3. A person who is questioned under paragraph 2 must —
  - (a) give the examining officer any information in his possession which the officer requests;
  - (b) give the examining officer on request either a valid passport which includes a photograph or another document which establishes his identity;
  - (c) declare whether he has with him documents of a kind specified by the examining officer;
  - (d) give the examining officer on request any document which he has with him and which is of a kind specified by the officer.
4. (1) For the purposes of exercising a power under paragraph 2 an examining officer may —
  - (a) stop a person or vehicle;
  - (b) detain a person.
- (2) For the purpose of detaining a person under this paragraph, an examining officer may authorise the person's removal from a ship, aircraft or vehicle.

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(3) Where a person is detained under this paragraph the provisions of Part I of Schedule 8 (treatment) shall apply.

(4) A person detained under this paragraph shall (unless detained under any other power) be released not later than the end of the period of 9 hours beginning with the time when his examination begins.

### *Searches*

5. For the purpose of satisfying himself whether there are any persons whom he may wish to question under paragraph 2 an examining officer may —

- (a) search a ship or aircraft;
- (b) search anything on a ship or aircraft;
- (c) search anything which he reasonably believes has been, or is about to be, on a ship or aircraft.

6. (1) An examining officer who questions a person under paragraph 2 may, for the purpose of determining whether he falls within section 29(1)(b) —

- (a) search the person;
- (b) search anything which he has with him, or which belongs to him, and which is on a ship or aircraft;
- (c) search anything which he has with him, or which belongs to him, and which the examining officer reasonably believes has been, or is about to be, on a ship or aircraft;
- (d) search a ship or aircraft for anything falling within paragraph (b).

(2) A search of a person under this paragraph must be carried out by someone of the same sex.

7. (1) An examining officer may examine goods to which this paragraph applies for the purpose of determining whether they have been used in the commission, preparation or instigation of acts of terrorism.

(2) This paragraph applies to —

- (a) goods which have arrived in or are about to leave the Island on a ship;
- (b) goods which have arrived at or are about to leave any place in the Island on an aircraft (whether the place they have come from or are going to is within or outside the Island).

(3) In this paragraph "goods" includes —

- (a) property of any description, and
- (b) containers.

(4) An examining officer may board a ship or aircraft or enter a vehicle for the purpose of determining whether to exercise his power under this paragraph.

8. (1) An examining officer may authorise a person to carry out on his behalf a search or examination under any of paragraphs 5 to 7.

(2) A person authorised under this paragraph shall be treated as an examining officer for the purposes of —

- (a) paragraphs 7(4) and 9 of this Schedule, and
- (b) paragraphs 2 and 3 of Schedule 12.

### *Detention of property*

9. (1) This paragraph applies to anything which —

- (a) is given to an examining officer in accordance with paragraph 3(d),
- (b) is searched or found on a search under paragraph 6, or
- (c) is examined under paragraph 7.

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- (2) An examining officer may detain the thing —
- (a) for the purpose of examination, for a period not exceeding 7 days beginning with the day on which the detention commences,
  - (b) while he believes that it may be needed for use as evidence in criminal proceedings, or
  - (c) while he believes that it may be needed in connection with a decision by the Governor whether to make a deportation order under the Immigration Act.

*Designated ports*

10. (1) This paragraph applies to a journey —
- (a) to the Island from any part of the British Isles, or
  - (b) from the Island to any part of the British Isles.
- (2) Where a ship or aircraft is employed to carry passengers for reward on a journey to which this paragraph applies the owners or agents of the ship or aircraft shall not arrange for it to call at a port in the Island for the purpose of disembarking or embarking passengers unless —
- (a) the port is a designated port, or
  - (b) an examining officer approves the arrangement.
- (3) Where an aircraft is employed on a journey to which this paragraph applies otherwise than to carry passengers for reward, the captain of the aircraft shall not permit it to call at or leave a port in the Island unless —
- (a) the port is a designated port, or
  - (b) he gives at least 12 hours' notice in writing to a constable.
- (4) A designated port is a port which appears in the Table at the end of this Schedule but subject to any conditions set out in column 2 of that Table.
- (5) The Governor in Council may by order —
- (a) add an entry to the Table;
  - (b) remove an entry from the Table.

*Embarkation and disembarkation*

11. (1) The Governor in Council may by notice in writing to the owners or agents of ships or aircraft —
- (a) designate control areas in any port in the Island;
  - (b) specify conditions for or restrictions on the embarkation or disembarkation of passengers in a control area.
- (2) Where owners or agents of a ship or aircraft receive notice under subparagraph (1) in relation to a port they shall take all reasonable steps to ensure, in respect of the ship or aircraft —
- (a) that passengers do not embark or disembark at the port outside a control area, and
  - (b) that any specified conditions are met and any specified restrictions are complied with.
12. (1) The Governor in Council may by notice in writing to persons concerned with the management of a port in the Island ("the port managers") —
- (a) designate control areas in the port;
  - (b) require the port managers to provide at their own expense specified facilities in a control area for the purposes of the embarkation or disembarkation of passengers or their examination under this Schedule;
  - (c) require conditions to be met and restrictions to be complied with in relation to the embarkation or disembarkation of passengers in a control area;

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- (d) require the port managers to display, in specified locations in control areas, notices containing specified information about the provisions of this Schedule in such form as may be specified.
  - (2) Where port managers receive notice under sub-paragraph (1) they shall take all reasonable steps to comply with any requirement set out in the notice.
13. (1) This paragraph applies to a ship employed to carry passengers for reward, or an aircraft, which —
- (a) arrives in the Island,
  - (b) leaves the Island.
  - (2) The captain shall ensure —
    - (a) that passengers and members of the crew do not disembark at a port in the Island unless either they have been examined by an examining officer or they disembark in accordance with arrangements approved by an examining officer;
    - (b) that passengers and members of the crew do not embark at a port in the Island except in accordance with arrangements approved by an examining officer;
    - (c) where a person is to be examined under this Schedule on board the ship or aircraft, that he is presented for examination in an orderly manner.
  - (3) Where paragraph 27 of Schedule 2 to the Immigration Act (disembarkation requirements on arrival in the Island) applies, the requirements of sub-paragraph (2)(a) of this paragraph are in addition to the requirements of paragraph 27 of that Schedule.

*Carding*

14. (1) The Governor in Council may by order make provision requiring a person to whom this paragraph applies, if required to do so by an examining officer, to complete and produce to the officer a card containing such information in such form as the order may specify.
- (2) An order under this paragraph may require the owners or agents of a ship or aircraft employed to carry passengers for reward to supply their passengers with cards in the form required by virtue of sub-paragraph (1).
  - (3) This paragraph applies to a person —
    - (a) who disembarks in the Island from a ship or aircraft which has arrived in the Island,
    - (b) who embarks in the Island on a ship or aircraft which is leaving or expected to leave the Island.

*Provision of passenger information*

15. (1) This paragraph applies to a ship or aircraft which —
- (a) arrives or is expected to arrive in any place in the Island (whether from within or outside the Island); or
  - (b) leaves or is expected to leave the Island.
  - (2) If an examining officer gives the owners or agents of a ship or aircraft to which this paragraph applies a written request to provide specified information, the owners or agents shall comply with the request as soon as is reasonably practicable.
  - (3) A request to an owner or agent may relate —
    - (a) to a particular ship or aircraft,
    - (b) to all ships or aircraft of the owner or agent to which this paragraph applies, or
    - (c) to specified ships or aircraft.

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(4) Information may be specified in a request only if it is of a kind which is prescribed by order of the Governor in Council and which relates —

- (a) to passengers,
- (b) to crew,
- (c) to vehicles belonging to passengers or crew,
- (d) to goods.

(5) A passenger or member of the crew on a ship or aircraft shall give the captain any information required for the purpose of enabling the owners or agents to comply with a request under this paragraph.

(6) Sub-paragraphs (2) and (5) shall not require the provision of information which is required to be provided under or by virtue of paragraph 27(2) or 27B of Schedule 2 to the Immigration Act.

*Offences*

16. (1) A person commits an offence if he —
- (a) intentionally fails to comply with a duty imposed under or by virtue of this Schedule,
  - (b) intentionally contravenes a prohibition imposed under or by virtue of this Schedule, or
  - (c) intentionally obstructs, or seeks to frustrate, a search or examination under or by virtue of this Schedule.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to custody for a term not exceeding 3 months, or to a fine not exceeding £2,500 or to both.

TABLE  
DESIGNATED PORTS

PORTS	CONDITIONS
Seaports	
DOUGLAS	
PEEL	On any occasion whenever it is impracticable for the Port of Douglas to be used owing to stress of weather or other reasonable cause and due notice of not less than 2 hours duration of the intention to use the Port of Peel has been given to the Chief Constable by the captain, owners or agents of the ship.
Airports	
ISLE OF MAN (RONALDSWAY) AIRPORT	
JURBY AERODROME	

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Section 30(2) & para.4(3) of Sch.7

SCHEDULE 8

DETENTION

PART I

TREATMENT OF PERSONS DETAINED UNDER SECTION 30 OR SCHEDULE 7

*Place of detention*

1. (1) The Department shall designate places at which persons may be detained under Schedule 7 or section 30.

(2) In this Schedule a reference to a police station includes a reference to any place which the Department has designated under sub-paragraph (1) as a place where a person may be detained under section 30.

(3) Where a person is detained under Schedule 7, he may be taken in the custody of an examining officer or of a person acting under an examining officer's authority to and from any place where his attendance is required for the purpose of —

- (a) his examination under that Schedule,
- (b) establishing his nationality or citizenship, or
- (c) making arrangements for his admission to a country or territory outside the Island.

(4) A constable who arrests a person under section 30 shall take him as soon as is reasonably practicable to the police station which the constable considers the most appropriate.

(5) In this paragraph "examining officer" has the meaning given in Schedule 7.

*Identification*

2. (1) An authorised person may take any steps which are reasonably necessary for —

- (a) photographing the detained person,
- (b) measuring him, or
- (c) identifying him.

(2) In sub-paragraph (1) "authorised person" means any of the following —

- (a) a constable,
- (b) a prison officer,
- (c) a person authorised by the Governor, and
- (d) in the case of a person detained under Schedule 7, an examining officer (within the meaning of that Schedule).

(3) This paragraph does not confer the power to take fingerprints, non-intimate samples or intimate samples (within the meaning given by paragraph 15).

*Audio and video recording of interviews*

3. (1) The Department shall —

- (a) issue a code of practice about the audio recording of interviews to which this paragraph applies, and
- (b) make an order requiring the audio recording of interviews to which this paragraph applies in accordance with any relevant code of practice under paragraph (a).

(2) The Department may make an order requiring the video recording of interviews to which this paragraph applies.

(3) An order under sub-paragraph (2) shall specify whether the video recording which it requires is to be silent or with sound.

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- (4) Where an order is made under sub-paragraph (2) —
- (a) the Department shall issue a code of practice about the video recording of interviews to which the order applies, and
  - (b) the order shall require the interviews to be video recorded in accordance with any relevant code of practice under paragraph (a).
- (5) Where the Department has made an order under sub-paragraph (2) requiring certain interviews to be video recorded with sound —
- (a) it need not make an order under sub-paragraph (1)(b) in relation to those interviews, but
  - (b) it may do so.
- (6) This paragraph applies to any interview by a constable of a person detained under Schedule 7 or section 30 if the interview takes place in a police station.
4. (1) This paragraph applies to a code of practice under paragraph 3.
- (2) The failure by a constable to observe a provision of a code shall not of itself make him liable to criminal or civil proceedings.
- (3) A code —
- (a) shall be 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.

*Status*

5. A detained person shall be deemed to be in legal custody throughout the period of his detention.

*Rights*

6. (1) Subject to paragraph 8, a person detained under Schedule 7 or section 30 at a police station shall be entitled, if he so requests, to have one named person informed as soon as is reasonably practicable that he is being detained there.
- (2) The person named must be —
    - (a) a friend of the detained person,
    - (b) a relative, or
    - (c) a person who is known to the detained person or who is likely to take an interest in his welfare.
  - (3) Where a detained person is transferred from one police station to another, he shall be entitled to exercise the right under this paragraph in respect of the police station to which he is transferred.
7. (1) Subject to paragraphs 8 and 9, a person detained under Schedule 7 or section 30 at a police station shall be entitled, if he so requests, to consult an advocate as soon as is reasonably practicable, privately and at any time.
- (2) Where a request is made under sub-paragraph (1), the request and the time at which it was made shall be recorded.
8. (1) Subject to sub-paragraph (2), an officer of at least the rank of chief inspector may authorise a delay —
- (a) in informing the person named by a detained person under paragraph 6;
  - (b) in permitting a detained person to consult an advocate under paragraph 7.
- (2) But where a person is detained under section 30 he must be permitted to exercise his rights under paragraphs 6 and 7 before the end of the period mentioned in subsection (3) of that section.
- (3) Subject to sub-paragraph (5), an officer may give an authorisation under sub-paragraph (1) only if he has reasonable grounds for believing —

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- (a) in the case of an authorisation under sub-paragraph (1)(a), that informing the named person of the detained person's detention will have any of the consequences specified in sub-paragraph (4), or
  - (b) in the case of an authorisation under sub-paragraph (1)(b), that the exercise of the right under paragraph 7 at the time when the detained person desires to exercise it will have any of the consequences specified in sub-paragraph (4).
  - (4) Those consequences are —
    - (a) interference with or harm to evidence of a serious arrestable offence,
    - (b) interference with or physical injury to any person,
    - (c) the alerting of persons who are suspected of having committed a serious arrestable offence but who have not been arrested for it,
    - (d) the hindering of the recovery of property obtained as a result of a serious arrestable offence or in respect of which a forfeiture order could be made under section 16,
    - (e) interference with the gathering of information about the commission, preparation or instigation of acts of terrorism,
    - (f) the alerting of a person and thereby making it more difficult to prevent an act of terrorism, and
    - (g) the alerting of a person and thereby making it more difficult to secure a person's apprehension, prosecution or conviction in connection with the commission, preparation or instigation of an act of terrorism.
  - (5) An officer may also give an authorisation under sub-paragraph (1) if he has reasonable grounds for believing that —
    - (a) the detained person has committed an offence to which Part I of the Criminal Justice Act 1990 (confiscation of the proceeds of an offence) applies,
    - (b) the detained person has benefited from the offence within the meaning of that Part, and
    - (c) by informing the named person of the detained person's detention (in the case of an authorisation under sub-paragraph (1)(a)), or by the exercise of the right under paragraph 7 (in the case of an authorisation under sub-paragraph (1)(b)), the recovery of the value of that benefit will be hindered.
  - (6) If an authorisation under sub-paragraph (1) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.
    - (7) Where an authorisation under sub-paragraph (1) is given —
      - (a) the detained person shall be told the reason for the delay as soon as is reasonably practicable, and
      - (b) the reason shall be recorded as soon as is reasonably practicable.
    - (8) Where the reason for authorising delay ceases to subsist there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under sub-paragraph (1).
  - (9) In this paragraph "serious arrestable offence" has the meaning given by section 79 of the Police Powers and Procedures Act 1998 but it also includes —
    - (a) an offence under any of the provisions mentioned in section 30(1)(a) of this Act, and
    - (b) an attempt or conspiracy to commit an offence under any of the provisions mentioned in section 29(1)(a).
9. (1) A direction under this paragraph may provide that a detained person who wishes to exercise the right under paragraph 7 may consult an advocate only in the sight and hearing of a qualified officer.

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- (2) A direction under this paragraph may be given by the Chief Constable.
  - (3) A direction under this paragraph may be given only if the Chief Constable has reasonable grounds for believing 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 the consequence specified in paragraph 8(5)(c).
    - (4) In this paragraph "a qualified officer" means a police officer who —
      - (a) is of at least the rank of inspector,
      - (b) is of the uniformed branch of the police force, and
      - (c) in the opinion of the officer giving the direction, has no connection with the detained person's case.
    - (5) A direction under this paragraph shall cease to have effect once the reason for giving it ceases to subsist.
10. (1) This paragraph applies where a person is detained under Schedule 7 or section 30.
- (2) Fingerprints may be taken from the detained person only if they are taken by a constable —
    - (a) with the appropriate consent given in writing, or
    - (b) without that consent under sub-paragraph (4).
  - (3) A non-intimate sample may be taken from the detained person only if it is taken by a constable —
    - (a) with the appropriate consent given in writing, or
    - (b) without that consent under sub-paragraph (4).
  - (4) Fingerprints or a non-intimate sample may be taken from the detained person without the appropriate consent only if —
    - (a) he is detained at a police station and a police officer of at least the rank of chief inspector authorises the fingerprints or sample to be taken, or
    - (b) he has been convicted of a recordable offence and, where a non-intimate sample is to be taken, he was convicted of the offence on or after 11 January 1999.
  - (5) An intimate sample may be taken from the detained person only if —
    - (a) he is detained at a police station,
    - (b) the appropriate consent is given in writing,
    - (c) a police officer of at least the rank of chief inspector authorises the sample to be taken, and
    - (d) subject to paragraph 13(2) and (3), the sample is taken by a constable.
  - (6) Subject to sub-paragraph (7), an officer may give an authorisation under sub-paragraph (4)(a) or (5)(c) only if —
    - (a) in the case of a person detained under section 30, the officer reasonably suspects that the person has been involved in an offence under any of the provisions mentioned in section 29(1)(a), and the officer reasonably believes that the fingerprints or sample will tend to confirm or disprove his involvement, or
    - (b) in any case, the officer is satisfied that the taking of the fingerprints or sample from the person is necessary in order to assist in determining whether he falls within section 29(1)(b).
  - (7) An officer may also give an authorisation under sub-paragraph (4)(a) for the taking of fingerprints if —
    - (a) he is satisfied that the fingerprints of the detained person will facilitate the ascertainment of that person's identity; and

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- (b) that person has refused to identify himself or the officer has reasonable grounds for suspecting that the person is not who he claims to be.
  - (8) In this paragraph, references to ascertaining a person's identity include references to showing that he is not a particular person.
  - (9) If an authorisation under sub-paragraph (4)(a) or (5)(c) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.
11. (1) Before fingerprints or a sample are taken from a person under paragraph 10, he shall be informed —
- (a) that the fingerprints or sample may be used for the purposes of paragraph 14(4), section 67 of the Police Powers and Procedures Act 1998 (checking of fingerprints and samples), and
  - (b) where the fingerprints or sample are to be taken under paragraph 10(2)(a), (3)(a) or (4)(b), of the reason for taking the fingerprints or sample.
- (2) Before fingerprints or a sample are taken from a person upon an authorisation given under paragraph 10(4)(a) or (5)(c), he shall be informed —
- (a) that the authorisation has been given,
  - (b) of the grounds upon which it has been given, and
  - (c) where relevant, of the nature of the offence in which it is suspected that he has been involved.
- (3) After fingerprints or a sample are taken under paragraph 10, there shall be recorded as soon as is reasonably practicable any of the following which apply —
- (a) the fact that the person has been informed in accordance with sub-paragraphs (1) and (2),
  - (b) the reason referred to in sub-paragraph (1)(b),
  - (c) the authorisation given under paragraph 10(4)(a) or (5)(c),
  - (d) the grounds upon which that authorisation has been given, and
  - (e) the fact that the appropriate consent has been given.
12. (1) This paragraph applies where —
- (a) two or more non-intimate samples suitable for the same means of analysis have been taken from a person under paragraph 10,
  - (b) those samples have proved insufficient, and
  - (c) the person has been released from detention.
- (2) An intimate sample may be taken from the person if —
- (a) the appropriate consent is given in writing,
  - (b) a police officer of at least the rank of superintendent authorises the sample to be taken, and
  - (c) subject to paragraph 13(2) and (3), the sample is taken by a constable.
- (3) Paragraphs 10(6) and (7) and 11 shall apply in relation to the taking of an intimate sample under this paragraph; and a reference to a person detained under section 30 shall be taken as a reference to a person who was detained under section 30 when the non-intimate samples mentioned in sub-paragraph (1)(a) were taken.
13. (1) Where appropriate written consent to the taking of an intimate sample from a person under paragraph 10 or 12 is refused without good cause, in any proceedings against that person for an offence —
- (a) the court, in determining whether to commit him for trial or whether there is a case to answer, may draw such inferences from the refusal as appear proper, and

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- (b) the court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper.
  - (2) An intimate sample other than a sample of urine or a dental impression may be taken under paragraph 10 or 12 only by a registered medical practitioner acting on the authority of a constable.
  - (3) An intimate sample which is a dental impression may be taken under paragraph 10 or 12 only by a registered dentist acting on the authority of a constable.
  - (4) Where a sample of hair other than pubic hair is to be taken under paragraph 10 the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.
14. (1) This paragraph applies to —
- (a) fingerprints or samples taken under paragraph 10 or 12, and
  - (b) information derived from those samples.
- (2) The fingerprints, samples or information may be used only for the purpose of a terrorist investigation.
- (3) In particular, a check may not be made against them under section 67 of the Police Powers and Procedures Act 1998 (checking of fingerprints and samples) except for the purpose of a terrorist investigation.
- (4) The fingerprints, samples or information may be checked, subject to sub-paragraph (2), against —
- (a) other fingerprints or samples taken under paragraph 10 or 12 or information derived from those samples,
  - (b) relevant physical data or samples taken by virtue of paragraph 20,
  - (c) any of the fingerprints, samples and information mentioned in section 67 of the Police Powers and Procedures Act 1998 (checking of fingerprints and samples),
  - (e) fingerprints or samples taken under section 13(7) of, or paragraph 7(3) of Schedule 5 to, the Prevention of Terrorism Act 1990 or information derived from those samples.
- (5) This paragraph (other than sub-paragraph (4)) shall apply to fingerprints or samples taken under section 13(7) of, or paragraph 7(3) of Schedule 5 to, the Prevention of Terrorism Act 1990 and information derived from those samples as it applies to fingerprints or samples taken under paragraph 10 or 12 and the information derived from those samples.
15. (1) In the application of paragraphs 10 to 14 in relation to a detained person the following expressions shall have the meaning given by section 69 of the Police Powers and Procedures Act 1990 (Part V definitions) —
- (a) "appropriate consent",
  - (b) "fingerprints",
  - (c) "insufficient",
  - (d) "intimate sample",
  - (e) "non-intimate sample",
  - (f) "registered dentist", and
  - (g) "sufficient".
- (2) In paragraph 10 "recordable offence" shall have the meaning given by section 81(1) of the Police Powers and Procedures Act 1998 (general interpretation).
16. The Department shall, by order, make provision to require that —
- (a) except in such circumstances, and

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- (b) subject to such conditions, as may be specified in the order, where a person detained has been permitted to consult an advocate, the advocate shall be allowed to be present at any interview carried out in connection with a terrorist investigation or for the purposes of Schedule 7.

PART II

REVIEW OF DETENTION UNDER SECTION 30

*Requirement*

17. (1) A person's detention shall be periodically reviewed by a review officer.
- (2) The first review shall be carried out as soon as is reasonably practicable after the time of the person's arrest.
- (3) Subsequent reviews shall, subject to paragraph 18, be carried out at intervals of not more than 12 hours.
- (4) No review of a person's detention shall be carried out after a warrant extending his detention has been issued under Part III.

*Postponement*

18. (1) A review may be postponed if at the latest time at which it may be carried out in accordance with paragraph 17 —
- (a) the detained person is being questioned by a police officer and an officer is satisfied that an interruption of the questioning to carry out the review would prejudice the investigation in connection with which the person is being detained,
- (b) no review officer is readily available, or
- (c) it is not practicable for any other reason to carry out the review.
- (2) Where a review is postponed it shall be carried out as soon as is reasonably practicable.
- (3) For the purposes of ascertaining the time within which the next review is to be carried out, a postponed review shall be deemed to have been carried out at the latest time at which it could have been carried out in accordance with paragraph 17.

*Grounds for continued detention*

19. (1) A review officer may authorise a person's continued detention only if satisfied that it is necessary —
- (a) to obtain relevant evidence whether by questioning him or otherwise,
- (b) to preserve relevant evidence,
- (c) pending a decision whether to apply to the Governor for a deportation notice to be served on the detained person,
- (d) pending the making of an application to the Governor for a deportation notice to be served on the detained person,
- (e) pending consideration by the Governor whether to serve a deportation notice on the detained person, or
- (f) pending a decision whether the detained person should be charged with an offence.
- (2) The review officer shall not authorise continued detention by virtue of sub-paragraph (1)(a) or (b) unless he is satisfied that the investigation in connection with which the person is detained is being conducted diligently and expeditiously.
- (3) The review officer shall not authorise continued detention by virtue of sub-paragraph (1)(c) to (f) unless he is satisfied that the process pending the completion of which detention is necessary is being conducted diligently and expeditiously.
- (4) In sub-paragraph (1)(a) and (b) "relevant evidence" means evidence which
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- (a) relates to the commission by the detained person of an offence under any of the provisions mentioned in section 29(1)(a), or
- (b) indicates that the detained person falls within section 29(1)(b).
- (5) In sub-paragraph (1) "deportation notice" means notice of a decision to make a deportation order under the Immigration Act.

### *Review officer*

20. (1) The review officer shall be an officer who has not been directly involved in the investigation in connection with which the person is detained.
- (2) In the case of a review carried out within the period of 24 hours beginning with the time of arrest, the review officer shall be an officer of at least the rank of inspector.
- (3) In the case of any other review, the review officer shall be an officer of at least the rank of superintendent.
21. (1) This paragraph applies where —
- (a) the review officer is of a rank lower than chief inspector,
  - (b) an officer of higher rank than the review officer gives directions relating to the detained person, and
  - (c) those directions are at variance with the performance by the review officer of a duty imposed on him under this Schedule.
- (2) The review officer shall refer the matter at once to the Chief Constable.

### *Representations*

22. (1) Before determining whether to authorise a person's continued detention, a review officer shall give either of the following persons an opportunity to make representations about the detention —
- (a) the detained person, or
  - (b) an advocate representing him who is available at the time of the review.
- (2) Representations may be oral or written.
- (3) A review officer may refuse to hear oral representations from the detained person if he considers that he is unfit to make representations because of his condition or behaviour.

### *Rights*

23. (1) Where a review officer authorises continued detention he shall inform the detained person —
- (a) of any of his rights under paragraphs 6 and 7 which he has not yet exercised, and
  - (b) if the exercise of any of his rights under either of those paragraphs is being delayed in accordance with the provisions of paragraph 8, of the fact that it is being so delayed.
- (2) Where a review of a person's detention is being carried out at a time when his exercise of a right under either of those paragraphs is being delayed,,
- (a) the review officer shall consider whether the reason or reasons for which the delay was authorised continue to subsist, and
  - (b) if in his opinion the reason or reasons have ceased to subsist, he shall inform the officer who authorised the delay of his opinion (unless he was that officer).

### *Record*

24. (1) A review officer carrying out a review shall make a written record of the outcome of the review and of any of the following which apply —
- (a) the grounds upon which continued detention is authorised,

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- (b) the reason for postponement of the review,
  - (c) the fact that the detained person has been informed as required under paragraph 23(1),
  - (d) the officer's conclusion on the matter considered under paragraph 23(2)(a),
  - (e) the fact that he has taken action under paragraph 23(2)(b), and
  - (f) the fact that the detained person is being detained by virtue of section 30(5) or (6).
- (2) The review officer shall —
- (a) make the record in the presence of the detained person, and
  - (b) inform him at that time whether the review officer is authorising continued detention, and if he is, of his grounds.
- (3) Sub-paragraph (2) shall not apply where, at the time when the record is made, the detained person is ,,
- (a) incapable of understanding what is said to him,
  - (b) violent or likely to become violent, or
  - (c) in urgent need of medical attention.

PART III

EXTENSION OF DETENTION UNDER SECTION 30

*Warrants of further detention*

25. (1) A police officer of at least the rank of chief inspector may apply to the High Bailiff for the issue of a warrant of further detention under this Part.
- (2) A warrant of further detention —
- (a) shall authorise the further detention under section 30 of a specified person for a specified period, and
  - (b) shall state the time at which it is issued.
- (3) The specified period in relation to a person shall end not later than the end of the period of 7 days beginning —
- (a) with the time of his arrest under section 30, or
  - (b) if he was being detained under Schedule 7 when he was arrested under section 30, with the time when his examination under that Schedule began.

*Time limit*

26. (1) An application for a warrant shall be made —
- (a) during the period mentioned in section 30(3), or
  - (b) within 6 hours of the end of that period.
- (2) The High Bailiff when hearing an application made by virtue of sub-paragraph (1)(b) shall dismiss the application if he considers that it would have been reasonably practicable to make it during the period mentioned in section 30(3).
- (3) For the purposes of this Schedule, an application for a warrant is made when written or oral notice of an intention to make the application is given to the High Bailiff.

*Notice*

27. An application for a warrant may not be heard unless the person to whom it relates has been given a notice stating —
- (a) that the application has been made,
  - (b) the time at which the application was made,
  - (c) the time at which it is to be heard, and
  - (d) the grounds upon which further detention is sought.

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### *Grounds for extension*

28. (1) The High Bailiff may issue a warrant of further detention only if satisfied that —
- (a) there are reasonable grounds for believing that the further detention of the person to whom the application relates is necessary to obtain relevant evidence whether by questioning him or otherwise or to preserve relevant evidence, and
  - (b) the investigation in connection with which the person is detained is being conducted diligently and expeditiously.
- (2) In sub-paragraph (1) "relevant evidence" means, in relation to the person to whom the application relates, evidence which —
- (a) relates to his commission of an offence under any of the provisions mentioned in section 29(1)(a), or
  - (b) indicates that he is a person falling within section 29(1)(b).

### *Representation*

29. (1) The person to whom an application relates shall —
- (a) be given an opportunity to make oral or written representations to the High Bailiff about the application, and
  - (b) subject to sub-paragraph (3), be entitled to be legally represented at the hearing.
- (2) The High Bailiff shall adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation where —
- (a) he is not legally represented,
  - (b) he is entitled to be legally represented, and
  - (c) he wishes to be so represented.
- (3) The High Bailiff may exclude any of the following persons from any part of the hearing —
- (a) the person to whom the application relates;
  - (b) anyone representing him.

### *Information*

30. (1) The officer who has made an application for a warrant may apply to the High Bailiff for an order that specified information upon which he intends to rely be withheld from —
- (a) the person to whom the application relates, and
  - (b) anyone representing him.
- (2) Subject to sub-paragraph (3), the High Bailiff may make an order under sub-paragraph (1) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information were disclosed —
- (a) evidence of an offence under any of the provisions mentioned in section 29(1)(a) would be interfered with or harmed,
  - (b) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
  - (c) the recovery of property in respect of which a forfeiture order could be made under section 16 would be hindered,
  - (d) the apprehension, prosecution or conviction of a person who is suspected of falling within section 29(1)(a) or (b) would be made more difficult as a result of his being alerted,

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- (e) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,
  - (f) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with, or
  - (g) a person would be interfered with or physically injured.
- (3) The High Bailiff may also make an order under sub-paragraph (1) in relation to specified information if satisfied that there are reasonable grounds for believing that —
- (a) the detained person has committed an offence to which Part VI of the Criminal Justice Act 1990, (confiscation of the proceeds of an offence) applies,
  - (b) the detained person has benefited from the offence within the meaning of that Part, and
  - (c) the recovery of the value of that benefit would be hindered, if the information were disclosed.
- (4) The High Bailiff shall direct that the following be excluded from the hearing of the application under this paragraph —
- (a) the person to whom the application for a warrant relates, and
  - (b) anyone representing him.

*Adjournments*

31. (1) The High Bailiff may adjourn the hearing of an application for a warrant only if the hearing is adjourned to a date before the expiry of the period mentioned in section 30(3).
- (2) This paragraph shall not apply to an adjournment under paragraph 29(2).

*Extensions of warrants*

32. (1) A police officer of at least the rank of superintendent may apply to the High Bailiff for the extension or further extension of the period specified in a warrant of further detention.
- (2) Where the period specified is extended, the warrant shall be endorsed with a note stating the new specified period.
- (3) The specified period shall end not later than the end of the period of 7 days beginning —
- (a) with the time of the person's arrest under section 30, or
  - (b) if he was being detained under Schedule 7 when he was arrested under section 30, with the time when his examination under that Schedule began.
- (4) Paragraphs 26(3) and 27 to 30 shall apply to an application under this paragraph as they apply to an application for a warrant of further detention.
- (5) The High Bailiff may adjourn the hearing of an application under sub-paragraph (1) only if the hearing is adjourned to a date before the expiry of the period specified in the warrant.
- (6) Sub-paragraph (5) shall not apply to an adjournment under paragraph 29(2).

*Detention — conditions*

33. A person detained by virtue of a warrant issued under this Part shall (unless detained in accordance with section 30(5) or (6) or under any other power) be released immediately if the officer having custody of him becomes aware that any of the grounds under paragraph 29(1)(a) and upon which the High Bailiff authorised his further detention have ceased to apply.

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SCHEDULE 9  
FREEZING ORDERS

*Funds*

1. A freezing order may include provision that funds include gold, cash, deposits, securities (such as stocks, shares and debentures) and such other matters as the order may specify.

*Making funds available*

2. (1) A freezing order must include provision as to the meaning (in relation to funds) of making available to or for the benefit of a person.

- (2) In particular, an order may provide that the expression includes —
- (a) allowing a person to withdraw from an account;
  - (b) honouring a cheque payable to a person;
  - (c) crediting a person's account with interest;
  - (d) releasing documents of title (such as share certificates) held on a person's behalf;
  - (e) making available the proceeds of realisation of a person's property;
  - (f) making a payment to or for a person's benefit (for instance under a contract, or as a gift or under any enactment such as enactments relating to social security);
  - (g) such other acts as the order may specify.

*Licences*

3. (1) A freezing order must include —

- (a) provision for the granting of licences authorising funds to be made available;
- (b) provision that a prohibition under the order is not to apply if funds are made available in accordance with a licence.

- (2) In particular, an order may provide —
- (a) that a licence may be granted generally or to a specified person or persons or description of persons;
  - (b) that a licence may authorise funds to be made available to or for the benefit of persons generally or a specified person or persons or description of persons;
  - (c) that a licence may authorise funds to be made available generally or for specified purposes;
  - (d) that a licence may be granted in relation to funds generally or to funds of a specified description;
  - (e) for a licence to be granted in pursuance of an application or without an application being made;
  - (f) for the form and manner in which applications for licences are to be made;
  - (g) for licences to be granted by the Treasury or a person authorised by the Treasury;
  - (h) for the form in which licences are to be granted;
  - (i) for licences to be granted subject to conditions;
  - (j) for licences to be of a defined or indefinite duration;
  - (k) for the charging of fees in connection with licences;
  - (l) for the variation and revocation of licences.

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### *Information and documents*

4. (1) A freezing order may include provision that a person —
- (a) must provide information if required to do so and it is reasonably needed for the purpose of ascertaining whether an offence under the order has been committed;
  - (b) must produce a document if required to do so and it is reasonably needed for that purpose.
- (2) In particular, an order may include —
- (a) provision that a requirement to provide information or to produce a document may be made by the Treasury or a person authorised by the Treasury;
  - (b) provision that information must be provided, and a document must be produced, within a reasonable period specified in the order and at a place specified by the person requiring it;
  - (c) provision that the provision of information is not to be taken to breach any restriction on the disclosure of information (however imposed);
  - (d) provision restricting the use to which information or a document may be put and the circumstances in which it may be disclosed;
  - (e) provision that a requirement to provide information or produce a document does not apply to privileged information or a privileged document;
  - (f) provision that information is privileged if the person would be entitled to refuse to provide it on grounds of legal professional privilege in proceedings in the High Court;
  - (g) provision that a document is privileged if the person would be entitled to refuse to produce it on grounds of legal professional privilege in proceedings in the High Court;
  - (h) provision that information or a document held with the intention of furthering a criminal purpose is not privileged.

### *Disclosure of information*

5. (1) A freezing order may include provision requiring a person to disclose information as mentioned below if the following three conditions are satisfied.
- (2) The first condition is that the person required to disclose is specified or falls within a description specified in the order.
- (3) The second condition is that the person required to disclose knows or suspects, or has grounds for knowing or suspecting, that a person specified in the freezing order as a person to whom or for whose benefit funds are not to be made available —
- (a) is a customer of the person required to disclose or has been a customer of his at any time since the freezing order came into force, or
  - (b) is a person with whom the person required to disclose has dealings in the course of his business or has had such dealings at any time since the freezing order came into force.
- (4) The third condition is that the information —
- (a) on which the knowledge or suspicion of the person required to disclose is based, or
  - (b) which gives grounds for his knowledge or suspicion,
- came to him in the course of a business in the regulated sector.
- (5) The freezing order may require the person required to disclose to make a disclosure to the Treasury of that information as soon as is practicable after it comes to him.
- (6) The freezing order may include —

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- (a) provision that Schedule 1 is to have effect for the purpose of determining what is a business in the regulated sector;
- (b) provision that the disclosure of information is not to be taken to breach any restriction on the disclosure of information (however imposed);
- (c) provision restricting the use to which information may be put and the circumstances in which it may be disclosed by the Treasury;
- (d) provision that the requirement to disclose information does not apply to privileged information;
- (e) provision that information is privileged if the person would be entitled to refuse to disclose it on grounds of legal professional privilege in proceedings in the High Court;
- (f) provision that information held with the intention of furthering a criminal purpose is not privileged.

### *Offences*

6. (1) A freezing order may include any of the provisions set out in this paragraph.

(2) A person commits an offence if he fails to comply with a prohibition imposed by the order.

(3) A person commits an offence if he engages in an activity knowing or intending that it will enable or facilitate the commission by another person of an offence under a provision included under sub-paragraph (2).

(4) A person commits an offence if —

- (a) he fails without reasonable excuse to provide information, or to produce a document, in response to a requirement made under the order;
- (b) he provides information, or produces a document, which he knows is false in a material particular in response to such a requirement or with a view to obtaining a licence under the order;
- (c) he recklessly provides information, or produces a document, which is false in a material particular in response to such a requirement or with a view to obtaining a licence under the order;
- (d) he fails without reasonable excuse to disclose information as required by a provision included under paragraph 5.

(5) A person does not commit an offence under a provision included under sub-paragraph (2) or (3) if he proves that he did not know and had no reason to suppose that the person to whom or for whose benefit funds were made available, or were to be made available, was the person (or one of the persons) specified in the freezing order as a person to whom or for whose benefit funds are not to be made available.

(6) A person guilty of an offence under a provision included under sub-paragraph (2) or (3) is liable —

- (a) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both;
- (b) on conviction on indictment, to custody for a term not exceeding 2 years or to a fine or to both.

(7) A person guilty of an offence under a provision included under sub-paragraph (4) is liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.

### *Offences: procedure*

7. (1) A freezing order may include the provisions set out in sub-paragraph (2).

(2) Notwithstanding section 75 of the Summary Jurisdiction Act 1989 (complaint to be made within 6 months of offence), a complaint relating to a summary offence

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under the order may be so tried if the complaint is made at any time within 1 year after the commission of the offence.

### *Offences by bodies corporate etc.*

8. (1) A freezing order may include any of the provisions set out in this paragraph.
- (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 his part,

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

- (3) In this section, "officers" includes —
- (a) a director, manager or secretary,
- (b) a person purporting to act as a director, manager or secretary,
- (c) if the affairs of the body are managed by its members, a member in connection with his functions of management, and
- (d) 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.

### *Compensation*

9. (1) A freezing order may include provision for the award of compensation to or on behalf of a person on the grounds that he has suffered loss as a result of —

- (a) the order;
- (b) the fact that a licence has not been granted under the order;
- (c) the fact that a licence under the order has been granted on particular terms rather than others;
- (d) the fact that a licence under the order has been varied or revoked.
- (2) In particular, the order may include —
- (a) provision about the person who may make a claim for an award;
- (b) provision about the person to whom a claim for an award is to be made (which may be provision that it is to be made to the High Court);
- (c) provision about the procedure for making and deciding a claim;
- (d) provision that no compensation is to be awarded unless the claimant has behaved reasonably (which may include provision requiring him to mitigate his loss, for instance by applying for a licence);
- (e) provision that compensation must be awarded in specified circumstances or may be awarded in specified circumstances (which may include provision that the circumstances involve negligence or other fault);
- (f) provision about the amount that may be awarded;
- (g) provision about who is to pay any compensation awarded (which may include provision that it is to be paid or reimbursed by the Treasury);
- (h) provision about how compensation is to be paid (which may include provision for payment to a person other than the claimant).

### *Treasury's duty to give reasons*

10. (1) A freezing order must include the provision set out in this paragraph.
- (2) If —

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- (a) a person is specified in the order as a person to whom or for whose benefit funds are not to be made available, and
- (b) he makes a written request to the Treasury to give him the reason why he is so specified,

as soon as is practicable the Treasury must give the person the reason in writing.

*Interpretation*

11. (1) References in this Schedule to a person specified in a freezing order as a person to whom or for whose benefit funds are not to be made available are to be read in accordance with section 51(4).

(2) References in this Schedule to a business in the regulated sector must be construed in accordance with Schedule 1.

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Section 56

SCHEDULE 10

EXTENSION OF EXISTING DISCLOSURE POWERS

ENACTMENTS TO WHICH SECTION 56 APPLIES

*Agricultural Marketing Act 1934 (XIV p.245)*

Section 18(1)

Section 28(3)

*Agricultural Wages Act 1952 (XVIII p.38)*

Section 14A(4)

*Agricultural Returns Act 1955 (XVIII p.663)*

Section 2

*Consumer Protection (Trade Descriptions) Act 1970 (XXI p.482)*

Section 28(5A)

*Sea-Fisheries Act 1971 (c. 18)*

Section 8(4)

*Fire Precautions Act 1975 (c.18)*

Section 16(1) and (2)

*Employment Agencies Act 1975 (c. 20)*

Section 8(4)

*Misuse of Drugs Act 1976 (c. 21)*

Section 30A(4)

*Energy Act 1980 (c.3)*

Paragraph 7(1) of Schedule 2

*Non-Resident Traders Act 1983 (c.26)*

Paragraph 2(2) of Schedule 1A

*Telecommunications Act 1984 (c.11)*

Section 31(2)

Section 39(2)

*Building Societies Act 1986 (c.7)*

Section 3(3)

*Legal Aid Act 1986 (c.23)*

Section 14(1)

*Insurance Act 1986 (c.24)*

Section 24(2)

*Radio Masts Regulation Act 1988 (c.11)*

Section 8(2)

*Moneylenders Act 1991 (c.6)*

Section 16(2)

*Consumer Protection Act 1991 (c.11)*

Section 34(2)

Section 47F(1)

*Anti-Terrorism and Crime Act 2003*

*Police Act 1993 (c.11)*

Paragraph 12(1) of Schedule 1

*Water Pollution Act 1993 (c.14)*

Section 28(2)

*Gas Regulation Act 1995 (c.7)*

Section 13(2)

*Insurance Intermediaries (General Business) Act 1996 (c.4)*

Section 10

*Timeshare Act 1996 (c.7)*

Paragraph 4(1) of Schedule 1

*Fair Trading Act 1996 (c.15)*

Section 25(3)

*Criminal Justice Act 1996 (c. 17)*

Section 2(4)

*Estate Agents Act 1999 (c.7)*

Paragraph 6 of the Schedule

*Retirement Benefits Schemes Act 2000 (c. 14)*

Section 44(1)

*Residence Act 2001 (c.7)*

Section 15(2)

*Minimum Wage Act 2001 (c. 25)*

Section 12(3)

SCHEDULE 11

AMENDMENT OF POLICE POWERS

Searches, examinations and fingerprinting

1. (1) After section 57 of the Police Powers and Procedures Act 1998 (searches of detained persons) insert —

**"57A. Searches and examination to ascertain identity**

(1) If an officer of at least the rank of inspector authorises it, a person who is detained in a police station may be searched or examined, or both —

- (a) for the purpose of ascertaining whether he has any mark that would tend to identify him as a person involved in the commission of an offence; or
- (b) for the purpose of facilitating the ascertainment of his identity.

(2) An officer may only give an authorisation under subsection (1) for the purpose mentioned in paragraph (a) of that subsection if —

- (a) the appropriate consent to an examination that would show whether the mark in question exists has been withheld; or
- (b) it is not practicable to obtain such consent.

(3) An officer may only give an authorisation under subsection (1) in a case in which subsection (2) does not apply if —

- (a) the person in question has refused to identify himself; or
- (b) the officer has reasonable grounds for suspecting that that person is not who he claims to be.

(4) An officer may give an authorisation under subsection (1) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(5) Any identifying mark found on a search or examination under this section may be photographed —

- (a) with the appropriate consent; or
- (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.

(6) Where a search or examination may be carried out under this section, or a photograph may be taken under this section, the only persons entitled to carry out the search or examination, or to take the photograph, are —

- (a) constables; and
- (b) persons who (without being constables) are designated for the purposes of this section by the Chief Constable;

and section 80 (use of force) applies to the exercise by a person falling within paragraph (b) of the powers conferred by the preceding provisions of this section as it applies to the exercise of those powers by a constable.

(7) A person may not under this section carry out a search or examination of a person of the opposite sex or take a photograph of any part of the body of a person of the opposite sex.

(8) An intimate search may not be carried out under this section.

(9) A photograph taken under this section —

- (a) may be used by, or disclosed to, any person for any purpose related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution; and

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- (b) after being so used or disclosed, may be retained but may not be used or disclosed except for a purpose so related.
- (10) In subsection (9) —
  - (a) the reference to crime includes a reference to any conduct which —
    - (i) constitutes one or more criminal offences (whether under the law of the Island or of a country or territory outside the United Kingdom); or
    - (ii) is, or corresponds to, any conduct which, if it all took place in the Island would constitute one or more criminal offences; and
  - (b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the Island of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the Island.
- (11) In this section —
  - (a) references to ascertaining a person's identity include references to showing that he is not a particular person; and
  - (b) references to taking a photograph include references to using any process by means of which a visual image may be produced, and references to photographing a person shall be construed accordingly.
- (12) In this section, "mark" includes features and injuries; and a mark is an identifying mark for the purposes of this section if its existence in any person's case facilitates the ascertainment of his identity or his identification as a person involved in the commission of an offence."
- (2) In section 64(4) of that Act (grounds on which fingerprinting of person detained at a police station may be authorised) —
  - (a) in paragraph (b), after "his involvement" insert "or will facilitate the ascertainment of his identity, or both"; and
  - (b) after that paragraph insert —

"but an authorisation shall not be given for the purpose of facilitating the ascertainment (within the meaning of section 57A) of that person's identity except where he has refused to identify himself or the officer has reasonable grounds for suspecting that he is not who he claims to be."

*Photographing of suspects etc.*

- 2. After section 68 of the Police Powers and Procedures Act 1998 insert —

**"68A. Photographing of suspects etc.**

  - (1) A person who is detained at a police station may be photographed —
    - (a) with the appropriate consent; or
    - (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.
  - (2) A person proposing to take a photograph of any person under this section —
    - (a) may, for the purpose of doing so, require the removal of any item or substance worn on or over the whole or any part of the head or face of the person to be photographed; and
    - (b) if the requirement is not complied with, may remove the item or substance himself.

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(3) Where a photograph may be taken under this section, the only persons entitled to take the photograph are —

- (a) constables; and
- (b) persons who (without being constables) are designated for the purposes of this section by the Chief Constable;

and section 80 (use of force) applies to the exercise by a person falling within paragraph (b) of the powers conferred by the preceding provisions of this section as it applies to the exercise of those powers by a constable.

(4) A photograph taken under this section —

- (a) may be used by, or disclosed to, any person for any purpose related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution; and
- (b) after being so used or disclosed, may be retained but may not be used or disclosed except for a purpose so related.

(5) In subsection (4) —

- (a) the reference to crime includes a reference to any conduct which —
  - (i) constitutes one or more criminal offences (whether under the law of the Island or of a country or territory outside the United Kingdom); or
  - (ii) is, or corresponds to, any conduct which, if it all took place in the Island would constitute one or more criminal offences; and

(b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the Island of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the Island.

(6) References in this section to taking a photograph include references to using any process by means of which a visual image may be produced, and references to photographing a person shall be construed accordingly."

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Section 65

SCHEDULE 12  
EXERCISE OF OFFICERS' POWERS

*General*

1. In this Schedule "an officer" means —
  - (a) an authorised officer within the meaning given by paragraph 19(1) of Schedule 3, and
  - (b) an examining officer within the meaning given by paragraph 1(1) of Schedule 7.
2. An officer may enter a vehicle for the purpose of exercising any of the functions conferred on him by virtue of this Act.
3. An officer may if necessary use reasonable force for the purpose of exercising a power conferred on him by virtue of this Act (apart from paragraphs 2 and 3 of Schedule 7).

*Information*

4. (1) Information acquired by an officer may be supplied —
  - (a) to the Governor for use in relation to immigration;
  - (b) to the Treasury for the purposes of any assigned matter within the meaning of the Customs and Excise Management Act 1986 or a customs officer;
  - (c) to a constable;
  - (d) to the Attorney General;
  - (e) to a person specified by order made by the Department for use of a kind specified in the order.
- (2) Information acquired by a customs officer or an immigration officer may be supplied to an examining officer within the meaning of Schedule 7.

*Code of practice*

5. An officer shall perform functions conferred on him by virtue of this Act in accordance with any relevant code of practice in operation under paragraph 6.
6. (1) The Department may issue codes of practice about the exercise by officers of functions conferred on them by virtue of this Act.
  - (2) The failure by an officer to observe a provision of a code shall not of itself make him liable to criminal or civil proceedings.
  - (3) The Department may bring a code into operation by order.

Section 74

SCHEDULE 13

SECURITY OF PATHOGENS AND TOXINS

PART 1

PATHOGENS, TOXINS AND DANGEROUS SUBSTANCES

*Pathogens and toxins in relation to which Schedule applies.*

1. (1) The requirements of this Schedule apply to the pathogens and toxins specified in the following list -

VIRUSES

Chikungunya virus  
Congo-crimean haemorrhagic fever virus  
Dengue fever virus  
Eastern equine encephalitis virus  
Ebola virus  
Hantaan virus  
Japanese encephalitis virus  
Junin virus  
Lassa fever virus  
Lymphocytic choriomeningitis virus  
Machupo virus  
Marburg virus  
Monkey pox virus  
Rift Valley fever virus  
Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus)  
Variola virus  
Venezuelan equine encephalitis virus  
Western equine encephalitis virus  
Yellow fever virus

RICKETTSIAE

Bartonella quintana (Rochalimea quintana, Rickettsia quintana)  
Coxiella burnetii  
Rickettsia prowazeki  
Rickettsia rickettsii

BACTERIA

Bacillus anthracis  
Brucella abortus  
Brucella melitensis  
Brucella suis  
Burkholderia mallei (Pseudomonas mallei)  
Burkholderia pseudomallei (Pseudomonas pseudomallei)  
Chlamydomphila psittaci  
Clostridium botulinum  
Francisella tularensis  
Salmonella typhi  
Shigella dysenteriae  
Vibrio cholerae  
Yersinia pestis

TOXINS

Aflatoxins  
Botulinum toxins  
Clostridium perfringens toxins  
Conotoxin  
Microcystin (Cyanginosin)  
Ricin

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Saxitoxin  
Shiga toxin  
Staphylococcus aureus toxins  
Tetrodotoxin  
Verotoxin

- (2) Any reference in this Schedule to a micro-organism includes —
- (a) any genetic material containing any nucleic acid sequence associated with the pathogenicity of the micro-organism; and
- (b) any genetically modified organism containing any such sequence.
- (3) Any reference in this Schedule to a toxin includes —
- (a) any genetic material containing any nucleic acid sequence for the coding of the toxin; and
- (b) any genetically modified organism containing any such sequence.
- (4) Any reference in this Schedule to a toxin includes sub-units of the toxin.

*Power to modify paragraph 1*

2. (1) The Department may by order modify any provision of paragraph 1.
- (2) The Department may not add any pathogen or toxin to that paragraph unless it is satisfied that the pathogen or toxin could be used in an act of terrorism to endanger life or cause serious harm to human health.

*Dangerous substances*

3. (1) In this Schedule "dangerous substance" means —
- (a) anything which consists of or includes a substance for the time being mentioned in paragraph 1; or
- (b) anything which is infected with or otherwise carries any such substance.
- (2) But something otherwise falling within sub-paragraph (1) is not to be regarded as a dangerous substance if —
- (a) it satisfies prescribed conditions; or
- (b) it is kept or used in prescribed circumstances.

PART 2

DUTY TO NOTIFY

*Duty to notify Department before keeping or using dangerous substances*

4. (1) The occupier of any premises must give a notice to the Department before any dangerous substance is kept or used there.
- (2) Sub-paragraph (1) does not apply to premises in respect of which a notice has previously been given under that sub-paragraph (unless it has been withdrawn).
- (3) The occupier of any premises in respect of which a notice has been given may withdraw the notice if no dangerous substance is kept or used there.
- (4) A notice under this paragraph must —
- (a) identify the premises in which the substance is kept or used;
- (b) identify any building or site of which the premises form part; and
- (c) contain such other particulars (if any) as may be prescribed.
- (5) The occupier of any premises in which any dangerous substance is kept or used on the day on which this paragraph comes into operation must give a notice under this paragraph before the end of the period of one month beginning with that day.
- (6) Where —
- (a) a substance which is kept or used in any premises becomes a dangerous substance by virtue of a modification of paragraph 1, but

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(b) no other dangerous substance is kept or used there,  
the occupier of the premises must give a notice under this paragraph before the end of the period of one month beginning with the day on which that modification comes into force.

PART 3

INFORMATION ABOUT DANGEROUS SUBSTANCES

*Information about security of dangerous substances*

5. (1) A constable may give to the occupier of any relevant premises a notice requiring him to give the Chief Constable such information as is specified or described in the notice by a time so specified and in a form and manner so specified.

(2) The required information must relate to —

- (a) any dangerous substance kept or used in the premises; or
- (b) the measures taken (whether by the occupier or any other person) to ensure the security of any such substance.

(3) In this Schedule references to measures taken to ensure the security of any dangerous substance kept or used in any relevant premises include —

- (a) measures taken to ensure the security of any building or site of which the premises form part; and
- (b) measures taken for the purpose of ensuring access to the substance is given only to those whose activities require access and only in circumstances that ensure the security of the substance.

(4) In this Schedule "relevant premises" means any premises —

- (a) in which any dangerous substance is kept or used, or
- (b) in respect of which a notice under paragraph 4 is in force.

*Information about persons with access to dangerous substances*

6. (1) A police officer of at least the rank of inspector may give to the occupier of any relevant premises a notice requiring him to give the Chief Constable a list of —

- (a) each person who has access to any dangerous substance kept or used there;
- (b) each person who, in such circumstances as are specified or described in the notice, has access to such part of the premises as is so specified or described;
- (c) each person who, in such circumstances as are specified or described in the notice, has access to the premises; or
- (d) each person who, in such circumstances as are specified or described in the notice, has access to any building or site of which the premises form part.

(2) A list under sub-paragraph (1) must be given before the end of the period of one month beginning with the day on which the notice is given.

(3) Where a list under sub-paragraph (1) is given, the occupier of the premises for the time being —

- (a) must secure that only the persons mentioned in the list are given the access identified in the list relating to them; but
- (b) may give a supplementary list to the Chief Constable of other persons to whom it is proposed to give access.

(4) Where a supplementary list is given under sub-paragraph (3)(b), the occupier of the premises for the time being must secure that persons mentioned in that list do not have the proposed access relating to them until the end of the period of 30 days beginning with the day on which that list is given.

(5) The Chief Constable may direct that a person may have such access before the end of that period.

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- (6) The Department may by order modify the period mentioned in subparagraph (4).
- (7) Any list under this paragraph must —
  - (a) identify the access which the person has, or is proposed to have;
  - (b) state the full name of that person, his date of birth, his address and his nationality; and
  - (c) contain such other matters (if any) as may be prescribed.

PART 4

SECURITY DIRECTIONS

*Directions requiring security measures*

- 7. (1) A constable may give directions to the occupier of any relevant premises requiring him to take such measures to ensure the security of any dangerous substance kept or used there as are specified or described in the directions by a time so specified.
  - (2) The directions may —
    - (a) specify or describe the substances in relation to the security of which the measures relate; and
    - (b) require the occupier to give a notice to the Chief Constable before any other dangerous substance specified or described in the directions is kept or used in the premises.

*Directions requiring disposal of dangerous substances*

- 8. (1) Where the Department has reasonable grounds for believing that adequate measures to ensure the security of any dangerous substance kept or used in any relevant premises are not being taken and are unlikely to be taken, it may give a direction to the occupier of the premises requiring him to dispose of the substance.
  - (2) The direction must —
    - (a) specify the manner in which, and time by which, the dangerous substance must be disposed of; or
    - (b) require the occupier to produce the dangerous substance to a person specified or described in the notice in a manner and by a time so specified for him to dispose of.

*Directions requiring denial of access*

- 9. (1) The Department may give directions to the occupier of any relevant premises requiring him to secure that the person identified in the directions —
  - (a) is not to have access to any dangerous substance kept or used there;
  - (b) is not to have, in such circumstances (if any) as may be specified or described in the directions, access to such part of the premises as is so specified or described;
  - (c) is not to have, in such circumstances (if any) as may be specified or described in the directions, access to the premises; or
  - (d) is not to have, in such circumstances (if any) as may be specified or described in the directions, access to any building or site of which the premises form part.
- (2) The directions must be given under the hand of the Minister.
- (3) The Department may not give the directions unless the Minister believes that they are necessary in the interests of national security.

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## PART 5

### ENFORCEMENT

#### *Powers of entry*

10. (1) A constable may, on giving notice under this paragraph, enter any relevant premises, or any building or site of which the premises form part, at a reasonable time for the purpose of assessing the measures taken to ensure the security of any dangerous substance kept or used in the premises.
- (2) The notice must be given to the occupier of the premises, or (as the case may be) the occupier of the building or site of which the premises form part, at least 2 working days before the proposed entry.
- (3) The notice must set out the purpose mentioned in sub-paragraph (1).
- (4) A constable who has entered any premises, building or site by virtue of sub-paragraph (1) may for the purpose mentioned in that sub-paragraph —
- (a) search the premises, building or site;
  - (b) require any person who appears to the constable to be in charge of the premises, building or site to facilitate any such inspection; and
  - (c) require any such person to answer any question.
- (5) The powers of a constable under this paragraph include power to take with him such other persons as appear to him to be necessary.

#### *Search warrants*

11. (1) If, on an application made by a constable, a justice of the peace is satisfied that there are reasonable grounds for believing —
- (a) that a dangerous substance is kept or used in any premises but that no notice under paragraph 4 is in force in respect of the premises, or
  - (b) that the occupier of any relevant premises is failing to comply with any direction given to him under paragraph 7 or 8,

and that any of the conditions mentioned in sub-paragraph (3) apply, he may issue a warrant authorising a constable to enter the premises, if necessary by force, and to search them.

- (2) A constable may seize and retain anything which he believes is or contains a dangerous substance.
- (3) The conditions mentioned in sub-paragraph (1) are —
- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
  - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to any substance which may be a dangerous substance;
  - (c) that entry to the premises will not be granted unless a warrant is produced;
  - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

#### *Offences*

12. (1) An occupier who fails without reasonable excuse to comply with any duty or direction imposed on him by or under this Schedule is guilty of an offence.
- (2) A person who, in giving any information to a person exercising functions under this Schedule, knowingly or recklessly makes a statement which is false or misleading in a material particular is guilty of an offence.
- (3) A person guilty of an offence under this paragraph is liable —
- (a) on conviction on information, to custody for a term not exceeding 5 years or a fine (or both); and

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- (b) on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding £5,000 (or both).

*Bodies corporate*

13. (1) If an offence under this Schedule —
- (a) is committed by a body corporate, and
  - (b) is proved to have been committed with the consent or connivance of an officer or relevant employee, or to be attributable to any neglect on his part,
- he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

- (2) In this paragraph —

"officer" includes —

- (a) a director, manager or secretary,
- (b) a person purporting to act as a director, manager or secretary,
- (c) if the affairs of the body are managed by its members, a member in connection with his functions of management, and
- (d) 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;

"relevant employee" means any employee of the body corporate who is in charge of any relevant premises or the access to any dangerous substance kept or used there.

*Partnerships and unincorporated associations*

14. (1) Proceedings for an offence alleged to have been committed by a partnership or an unincorporated association must be brought in the name of the partnership or association (and not in that of any of its members).

(2) A fine imposed on the partnership or association on its conviction of an offence is to be paid out of the funds of the partnership or association.

(3) Documents shall be served on the partnership or association as if it were a body corporate and section 10 of the Criminal Jurisdiction Act 1993 and any other enactments relating to the service of documents shall have effect accordingly.

- (4) In proceedings for an offence brought against the partnership or association —

- (a) section 10 of the Criminal Jurisdiction Act 1993 (arraignment); and
- (b) section 32 of the Summary Jurisdiction Act 1989 (procedure),

apply as they do in relation to a body corporate.

(5) If an offence under this Schedule committed by a partnership is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

- (a) a partner or a person purporting to act as a partner, or
- (b) any employee of the partnership who is in charge of any relevant premises or the access to any dangerous substance kept or used there,

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

(6) If an offence under this Schedule committed by an unincorporated association is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

- (a) any officer, or
- (b) any employee of the association who is in charge of any relevant premises or the access to any dangerous substance kept or used there,

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

- (7) In sub-paragraph (6), "officer", in relation to any association, means —
  - (a) any officer of the association or any member of its governing body; or
  - (b) any person purporting to act in such a capacity.

### PART 6

#### APPEALS

##### *Denial of access: appeals*

15. (1) Any person who is —
  - (a) aggrieved by directions given under paragraph 9; or
  - (b) required to do any act in response to —
    - (i) any notice under paragraph 5, or
    - (ii) any directions under paragraph 7 or 8,

may appeal to the High Court.

(2) The High Court may allow an appeal under sub-paragraph (1) on a question of law.

(3) The High Court must allow an appeal under sub-paragraph (1)(a) if it considers that the decision to give the directions was flawed when considered in the light of the principles applicable on an application for judicial review.

(4) The High Court may allow an appeal under sub-paragraph (1)(b) if it considers, having regard to all the circumstances of the case, it is unreasonable to be required to do the act concerned.

(5) An appeal may not be brought after the end of the period of one month beginning with the day on which the notice or directions were given.

(6) If the High Court allows an appeal under sub-paragraph (1)(b), it may —

- (a) direct that the required act need not be done;
- (b) make such modification of the requirement as it considers appropriate;
- (c) make such other order as the court thinks fit.

(7) If the High Court allows an appeal under sub-paragraph (1)(a), it may —

- (a) confirm, vary or revoke the directions;
- (b) make such other order or declaration, or grant such relief as it could have done in respect of an application for judicial review;
- (c) make such other order as the court thinks fit.

##### *Rules of court*

16. Rules of court under section 25 of the High Court Act 1991 may be made to —

- (a) regulate the exercise of the right of appeal under this paragraph;
- (b) prescribe practice and procedure to be followed in relation to appeal proceedings under this paragraph;
- (c) secure that information is not disclosed contrary to the public interest.

### PART 7

#### SUPPLEMENTARY

##### *Giving of directions or notices*

17. Any direction or notice under this Schedule may be given by post.

##### *Interpretation*

18. (1) In this Schedule —

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"dangerous substance" has the meaning given in paragraph 3;

"direction" means a direction in writing;

"notice" means a notice in writing;

"occupier" includes a partnership or unincorporated association and, in relation to premises that are unoccupied, means any person entitled to occupy the premises;

"prescribed" means prescribed in regulations made by the Department;

"relevant premises" has the meaning given in paragraph 5.

(2) In this Schedule references to measures taken to ensure the security of any dangerous substance are to be construed in accordance with paragraph 5.

*Power to extend Schedule to animal or plant pathogens, pests or toxic chemicals*

19. (1) The Department may, in relation to anything to which this paragraph applies, make an order applying, or making provision corresponding to, any provision of this Schedule, with or without modifications.

(2) This paragraph applies to „—

(a) toxic chemicals (within the meaning of the Chemical Weapons Act 1996 (an Act of Parliament));

(b) animal pathogens;

(c) plant pathogens; and

(d) pests.

(3) The power under this paragraph may be exercised in relation to any chemical only if the Department is satisfied that the chemical could be used in an act of terrorism to endanger life or cause serious harm to human health.

(4) The power under this paragraph may be exercised in relation to any pathogen or pest only if the Department is satisfied that there is a risk that the pathogen or pest is of a description that could be used in an act of terrorism to cause —

(a) widespread damage to property;

(b) significant disruption to the public; or

(c) significant alarm to the public.

(5) An order under this paragraph may —

(a) provide for any reference in the order to an instrument or other document to take effect as a reference to that instrument or document as revised or re-issued from time to time; and

(b) make such incidental and supplementary provision as the Department thinks fit.

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Section 79

SCHEDULE 14

CONSEQUENTIAL AND MISCELLANEOUS AMENDMENTS

*Misuse of Drugs Act 1976 (c.21)*

1. For section 37 substitute —

**"37. Meaning of "corresponding law", and evidence of certain matters by certificate**

(1) In this Act, "corresponding law" means —

(a) a law providing for the control and regulation in a country outside the Island of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March 1961; or

(b) a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and Her Majesty's Government in the United Kingdom are for the time being parties.

(2) A statement in a certificate purporting to be issued by or on behalf of the government of a country outside the Island to the effect that —

(a) a law mentioned in the certificate is a corresponding law; or

(b) any facts constitute an offence against the law mentioned in the certificate,

shall be evidence of the matters stated."

*Theft Act 1981 (c.21)*

2. In section 9A(5), for "paragraph 6 of Schedule 7 to the Prevention of Terrorism Act 1990" substitute "section 71 of the Anti-Terrorism and Crime Act 2003".

*Criminal Justice Act 1990 (c.1)*

3. (1) In section 1(9)(c)(ii), after "drug trafficking offence" insert "or an offence under any of sections 7 to 10 of the Anti-Terrorism and Crime Act 2003".

(2) In section 4(2), after paragraph (b) insert —

"or

(c) an order under section 16 of the Anti-Terrorism and Crime Act 2003,".

(3) In section 17J (inserted by section 47 of the Criminal Justice Act 2001) —

(a) at the beginning, for "17J" substitute "17K";

(b) at the end add —

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

(a) on summary conviction to custody for a period not exceeding 6 months; and

(b) on conviction on information, to custody for a period of 5 years or to a fine or to both."

(4) Any document or instrument (whether made before or after this paragraph comes into operation) that refers to a provision re-numbered by sub-paragraph (3)(a) by reference to its original number shall be construed for all purposes as a reference to that provision as re-numbered.

## *Anti-Terrorism and Crime Act 2003*

### *Custody Act 1995 (c.1)*

4. In section 6 —
- (a) in subsection (5), in paragraph (i) for "section 12 of the Prevention of Terrorism Act 1990" substitute "section 30 of the Anti-Terrorism and Crime Act 2003";
  - (b) in subsection (6), in paragraph (i) for "section 12 of the Prevention of Terrorism Act 1990" substitute "section 30 of the Anti-Terrorism and Crime Act 2003".

### *Drug Trafficking Act 1996 (c.3)*

5. For section 6(3)(c) substitute —
- "(c) section 16 of the Anti-Terrorism and Crime Act 2003 (forfeiture).".

### *Police Powers and Procedures Act 1998 (c.9)*

6. (1) In section 27(2), at the beginning of the paragraph (e) (inserted by section 2 of the Protection from Harassment Act 2000) for "(e)" substitute "(h)".

(2) Any document or instrument (whether made before or after this paragraph comes into operation) that refers to a provision re-numbered by sub-paragraph (1) by reference to its original number shall be construed for all purposes as a reference to that provision as re-numbered.

- (3) For section 33(9)(b) substitute —  
"(b) any provision of the Anti-Terrorism and Crime Act 2003."
- (4) In section 35(10) for "section 13(2), (3) and (4) of the Prevention of Terrorism Act 1990" substitute "section 32 of the Anti-Terrorism and Crime Act 2003".
- (5) For section 54(b) substitute —  
"(b) the powers conferred by virtue of section 30 of, or Schedules 7 and 8 to, the Anti-Terrorism and Crime Act 2003;"
- (6) For section 59(12) and (13) substitute —  
"(12) Nothing in this section applies to a person arrested or detained under the terrorism provisions."
- (7) For section 61(14) to (20) substitute —  
"(14) Nothing in this section applies to a person arrested or detained under the terrorism provisions."
- (8) For section 64(9)(b) substitute —  
"(b) applies to a person arrested or detained under the terrorism provisions."
- (9) In section 65, at the end add —  
"(14) Nothing in this section applies to a person arrested or detained under the terrorism provisions; and subsection (2) shall not apply where the non-intimate samples mentioned in that subsection were taken under paragraph 10 of Schedule 8 to the Anti-Terrorism and Crime Act 2003."
- (10) In section 66, at the end add —  
"(14) Nothing in this section applies to a person arrested or detained under the terrorism provisions."
- (11) In section 69 for the definitions of "the terrorism provisions" and "terrorism" substitute —  
""the terrorism provisions" means section 30 of the Anti-Terrorism and Crime Act 2003, and any provision of Schedule 7 to that Act conferring a power of detention; and  
"terrorism" has the meaning given in section 1 of that Act;"

*Anti-Terrorism and Crime Act 2003*

(12) In section 81(2)(a), for the words from "section 12" to the end of the paragraph substitute "under section 30 of the Anti-Terrorism and Crime Act 2003; or".

*Children and Young Persons Act 2001 (c. 20)*

7. In section 73(2)(d) after "1998" insert "or paragraph 10(5) of Schedule 8 to the Anti-Terrorism and Crime Act 2003".

*Anti-Terrorism and Crime Act 2003*

Section 79

SCHEDULE 15  
REPEALS

<i>Chapter/Vol</i>	<i>Title</i>	<i>Extent of repeal</i>
1990 c.19	Prevention of Terrorism Act 1990	The whole Act.
1992 c.9	Prevention of Terrorism (Amendment) Act 1992	The whole Act.
1995 c.1	Custody Act 1995	Section 6(5)(a)(ii). In Schedule 4, paragraph 10.
1996 c.17	Criminal Justice Act 1996	In Schedule 2, paragraph 11.
1997 c.1	Law Reform Act 1997	In Schedule 5, paragraph 17.
1998 c.8	Criminal Justice (Money Laundering Offences) Act 1998	Section 1. Schedule 1.
1998 c.9	Police Powers and Procedures Act 1998	Section 56(2)(a). Section 63(2). Section 64(10) and (11). In section 79 — (a) in subsection (3), "and (5)"; and (b) subsection (5). In Schedule 2, the entry relating to the Prevention of Terrorism Act 1990. In Schedule 4, paragraphs 11 to 13.
2001 c.20	Children and Young Persons Act 2001	In Schedule 12, paragraph 17.