

**TERRORISM AND CRIME (MISCELLANEOUS
AMENDMENTS) BILL 2015**

Explanatory Memorandum

1. This Bill is promoted by the Cabinet Office.
2. *Clauses 1 to 3* deal with the short title of the resulting Act, its commencement and the interpretation of certain terms used in it.
3. *Clause 4* amends section 24 of the *Criminal Justice Act 1963* which deals with proof of previous conviction, by expanding the references in it to courts of the British Islands to include courts of the Member States of the EU and of jurisdictions to which the Warsaw Convention (which is defined) extends British overseas territories (which is defined) and such other territories as the Department of Home Affairs may add by order, subject to Tynwald approval (“the Extension”).
4. *Clause 5* amends section 53 of the *Criminal Justice Act 2001* so as to apply the Extension in relation to evidence in criminal proceedings.
5. *Clause 6* amends section 75 of the *Anti-Terrorism and Crime Act 2003* (the 2003 Act) by substituting the existing definition of “property” with a more comprehensive definition in subsection (1) (“the Property Definition”).
6. *Clause 7* amends the 2003 Act by inserting a new section 76B (compliance with international standards) so as to enable the Council of Ministers to amend the 2003 Act to implement international obligations and recommendations of certain international bodies by order. Such an order must be laid before Tynwald and approved at a subsequent sitting of Tynwald (the “International Standards Amendment”).
7. *Clause 8* amends section 77 of the 2003 Act by inserting a new subsection 2A to exclude orders made under section 76B(1) or (4) from the effect of subsection (2).
8. *Clauses 9 and 10* amend section 65(4) and section 132(1) of the *Proceeds of Crime Act 2008* (“the 2008 Act”) by substituting the existing definitions of “property” with the Property Definition.
9. *Clause 11* amends section 150 of the 2008 Act by substituting the references to “6 months” in subsections (1)(a) and (2)(a) for “12 months”.
10. *Clauses 12, 13 and 14* amend section 158(9), section 197(1) and section 218(4) by substituting the existing definitions of “property” with the Property Definition.
11. *Clause 15* amends the 2008 Act by inserting the International Standards Amendment as a new section 222A (compliance with international standards).

Such an order must be laid before Tynwald and approved at a subsequent sitting of Tynwald.

12. *Clause 16* amends section 223 of the 2008 Act by adding reference to “section 222A(1) or” after “under” in subsection (4) to reflect the more onerous Tynwald requirements set out in the new section 222A.
13. *Clause 17* amends section 3 of the *Terrorism and Other Crime (Financial Restrictions) Act 2014* (“the 2014 Act”) by amending the definition of “designated person” in subsection (1) and by inserting a new paragraph (c) in which reference is made to natural or legal persons, groups or entities mentioned in lists maintained by committees established by the United Nations Security Council. New subsections (2) and (3) are inserted so as to enable the Council of Ministers to amend the definition of “designated person” to reflect changes to EU or United Nations instruments. Such an order will be subject to Tynwald approval.
14. *Clause 18* amends the 2014 Act by inserting a new section 5A (Meaning of “owned”, “held” and “controlled”) so as to give the words the same meaning as they have in Council Regulation (EC) No 2580/2001 of 27 December 2001.
15. *Clause 19* makes amendments to the 2014 Act by inserting the International Standards Amendment” as new section 69A (compliance with international standards). Such an order must be laid before Tynwald and approved at a subsequent sitting of Tynwald.
16. *Clause 20* makes provision for the expiry of the Bill once all of its provisions are in operation.
17. This Bill is not expected to have any human or financial resource implications.
18. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



Ellan Vannin

TERRORISM AND CRIME (MISCELLANEOUS AMENDMENTS) BILL 2015

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Ellan Vannin

TERRORISM AND CRIME (MISCELLANEOUS AMENDMENTS) BILL 2015

A BILL to amend certain enactments so as to secure or improve compliance with international standards and obligations; and for connected purposes.

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

1 Short title

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

2 Commencement

(1) This Act, except section 1 and this section, comes into operation on such day or days as the Department of Home Affairs may by order appoint.

(2) An order under subsection (1) may include such supplemental, incidental, consequential and transitional provisions as appear to the Department of Home Affairs to be necessary or expedient.

3 Interpretation

In this Act —

“**the 1963 Act**” means the *Criminal Justice Act 1963*;

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

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

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

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

4 Section 24 of the 1963 Act amended

For section 24 of the 1963 Act (proof of previous conviction) substitute —

- 1 “(1) In any criminal proceedings a previous conviction or finding of
2 guilt by a court in any of the countries or territories specified in
3 subsection (2) may be proved in a court in the Isle of Man by such
4 evidence, documentary or otherwise, as would be accepted as
5 proof thereof in a court in that part of the country or territory
6 where the conviction or finding of guilt was pronounced.
- 7 (2) The countries and territories are —
8 (a) the British Islands;
9 (b) a member State of the EU;
10 (c) a country or territory to which the Warsaw Convention
11 extends; and
12 (d) a British overseas territory.
- 13 (3) The Department may by order amend subsection (2) to add or
14 vary the countries and territories to which subsection (1) applies.
- 15 (4) An order made under subsection (3) must not come into operation
16 unless it is approved by Tynwald.
- 17 (5) In this section, “Warsaw Convention” means the Council of
18 Europe Convention on Laundering, Search, Seizure and
19 Confiscation of the Proceeds of Crime and on the Financing of
20 Terrorism signed in Warsaw on 16 May 2005 (as that Convention
21 may be amended, replaced or superseded).
- 22 (6) In this section, “British overseas territory” has the same meaning
23 as in section 50(1) of the British Nationality Act 1981 (of
24 Parliament).”

25 5 Section 53 of the 2001 Act amended

- 26 (1) Section 53 of the 2001 Act (evidence in criminal proceedings —
27 convictions) is amended as follows.
- 28 (2) In each of subsections (1), (2) and (3) for “any court in the British Isles”
29 substitute “any court in any of the countries or territories specified in
30 subsection (5)”.
- 31 (3) After subsection (4) add —
32 “(5) The countries and territories referred to in subsections (1), (2) and
33 (3) are —
34 (a) the British Isles;
35 (b) a member State of the EU;
36 (c) a country or territory to which the Warsaw Convention
37 extends; and
38 (d) a British overseas territory.

- 1 (6) The Department of Home Affairs may by order amend subsection
2 (5) to add or vary the countries and territories to which
3 subsections (1), (2) and (3) apply.
- 4 (7) An order made under subsection (6) must not come into operation
5 unless it is approved by Tynwald.
- 6 (8) In this section, “Warsaw Convention” means the Council of
7 Europe Convention on Laundering, Search, Seizure and
8 Confiscation of the Proceeds of Crime and on the Financing of
9 Terrorism signed in Warsaw on 16 May 2005 (as that Convention
10 may be amended, replaced or superseded).
- 11 (9) In this section, “British overseas territory” has the same meaning
12 as in section 50(1) of the *British Nationality Act 1981* (of
13 Parliament).”.

14 **6 Section 75 of the 2003 Act amended**

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

- 17 | “**property**” is all property, wherever situated and includes —
- 18 | (a) money;
- 19 | (b) all forms of property, real or personal, heritable or
20 | moveable;
- 21 | (c) things in action and other intangible or incorporeal
22 | property; and
- 23 | (d) legal documents and instruments evidencing title to or
24 | interest in any such property;”.

25 **7 Section 76B of the 2003 Act inserted**

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

28 | **“76B Compliance with international standards**

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

(3) In this section —

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

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

“**international bodies**” means —

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

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

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

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

(5) No order under subsection (1) may be made unless —

- (a) the Council of Ministers has consulted such persons and bodies as it considers appropriate; and
- (b) a draft of the proposed order has been laid before a sitting of Tynwald and that draft has been approved at a subsequent sitting of Tynwald.

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

8 Section 77 of the 2003 Act amended

In section 77 of the 2003 Act (orders etc), after subsection (2) insert —

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

9 Section 65 of the 2008 Act amended

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

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

- (a) money;
- (b) all forms of property, real or personal, heritable or moveable;

- 1 (c) things in action and other intangible or incorporeal
2 property; and
3 (d) legal documents and instruments evidencing title to or
4 interest in any such property.”.

5 **10 Section 132 of the 2008 Act amended**

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

- 8 | “(1) Property is all property, wherever situated and includes —
9 | (a) money;
10 | (b) all forms of property, real or personal, heritable or
11 | moveable;
12 | (c) things in action and other intangible or incorporeal
13 | property; and
14 | (d) legal documents and instruments evidencing title to or
15 | interest in any such property.”.

16 **11 Section 150 of the 2008 Act amended**

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

19 **12 Section 158 of the 2008 Act amended**

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

- 22 | “(9) Property is all property, wherever situated and includes —
23 | (a) money;
24 | (b) all forms of property, real or personal, heritable or
25 | moveable;
26 | (c) things in action and other intangible or incorporeal
27 | property; and
28 | (d) legal documents and instruments evidencing title to or
29 | interest in any such property.”.

30 **13 Section 197 of the 2008 Act amended**

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

- 32 | “(1) Property is all property, wherever situated and includes —
33 | (a) money;
34 | (b) all forms of property, real or personal, heritable or
35 | moveable;

- 1 (c) things in action and other intangible or incorporeal
2 property; and
3 (d) legal documents and instruments evidencing title to or
4 interest in any such property.”

5 **14 Section 218 of the 2008 Act amended**

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

- 8 “(4) Property is all property, wherever situated and includes —
9 (a) money;
10 (b) all forms of property, real or personal, heritable or
11 moveable;
12 (c) things in action and other intangible or incorporeal
13 property; and
14 (d) legal documents and instruments evidencing title to or
15 interest in any such property.”

16 **15 Section 222A of the 2008 Act inserted**

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

18 **“222A Compliance with international standards**

- 19 (1) The Council of Ministers may by order amend this Act in
20 connection with the implementation of —
21 (a) relevant international obligations or standards; or
22 (b) the recommendations (however described) of international
23 bodies that are involved with the adoption, monitoring or
24 promotion of such obligations or standards.
25 (2) An order under subsection (1) may contain such consequential,
26 supplementary, incidental and transitional provisions as the
27 Council of Ministers considers to be necessary or expedient.
28 (3) In this section —
29 **“FATF”** means the Financial Action Task Force;
30 **“FATF Recommendations”** means the International Standards on
31 Combating Money Laundering and the Financing of Terrorism &
32 Proliferation, adopted by FATF, together with any guidance or
33 supporting documentation published by FATF;
34 **“international bodies”** means —
35 (a) FATF;
36 (b) the International Monetary Fund; and

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(c) MONEYVAL;

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

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

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

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(5) No order under subsection (1) may be made unless —

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(a) the Council of Ministers has consulted such persons and bodies as it considers appropriate; and

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(b) a draft of the proposed order has been laid before a sitting of Tynwald and that draft has been approved at a subsequent sitting of Tynwald.”.

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16 Section 223 of the 2008 Act amended

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In section 223 of the 2008 Act (subordinate legislation), in subsection (4) after “under” insert “section 222A(1) or”.

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17 Section 3 of the 2014 Act amended

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(1) Section 3 of the 2014 Act (interpretation) is amended as follows.

20

(2) Renumber the existing text as subsection “(1)”.

21

(3) In subsection (1), in the definition of “**designated person**” —

22

(a) at the end of paragraph (b) add the word “or”;

23

(b) after paragraph (b) insert —

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“(c) a natural or legal person, group or entity —

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(i) listed on the Al-Qaida Sanctions List maintained and amended from time to time by the Committee established pursuant to resolution 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities; or

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(ii) listed on a list maintained and amended from time to time by the Committee established pursuant to resolution 1988 (2011) as being associated with the Taliban,

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such Committees being established by the United Nations Security Council;”.

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(4) After subsection (1) insert —

- 1 “(2) The Council of Ministers may by order amend the definition of
2 “designated person” in subsection (1) to reflect changes to EU or
3 United Nations instruments.
- 4 (3) An order under subsection (2) must be laid before Tynwald as
5 soon as practicable after it is made, and if Tynwald at the sitting at
6 which the order is laid or at the next following sitting fails to
7 approve it, the order shall cease to have effect.”.

8 **18 Section 5A of the 2014 Act inserted**

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

10 **“5A Meaning of “owned”, “held” and “controlled”**

- 11 | (1) In this Act —
- 12 | (a) the words “**owned**”, “**held**”, “**controlled**”, “**directly**” and
13 | “**indirectly**” have the same meaning as they have in
14 | Council Regulation (EC) No 2580/2001 of 27 December
15 | 2001 on specific restrictive measures directed against
16 | certain persons and entities with a view to combating
17 | terrorism¹ (as that Regulation is amended from time to
18 | time); and
- 19 | (b) section 3 of the *European Communities (Isle of Man) Act 1973*
20 | applies to any question as to the meaning or effect of those
21 | words.
- 22 | (2) The fact that funds or economic resources (see the definitions of
23 | those terms in section 3) are owned, held or controlled by a
24 | designated person jointly with another person or otherwise does
25 | not prevent those funds or resources being treated as being
26 | owned, held or controlled by the designated person for the
27 | purposes of sections 25 (power to require information) and 44
28 | (freezing of funds and economic resources).
- 29 | (3) A reference in section 25 or 44 to funds or economic resources
30 | being “owned, held or controlled” by a designated person
31 | includes a reference to them being owned, held or controlled
32 | directly or indirectly.”.

33 **19 Section 69A of the 2014 Act inserted**

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

¹ OJ L 344 of 28.12.2001 p70

“69A Compliance with international standards

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

20 Expiry

- (1) This Act expires —

- 1 (a) on the day after its promulgation, if all of its provisions are in
2 operation on its promulgation; or
- 3 (b) otherwise, on the day after the last provision is brought into
4 operation.
- 5 (2) The expiry does not —
- 6 (a) affect the continuing operation of the amendments made by this
7 Act; or
- 8 (b) revive any provision not in operation when the amendments took
9 effect.

IN THE KEYS

**TERRORISM AND CRIME (MISCELLANEOUS
AMENDMENTS) BILL 2015**

A **BILL** to amend certain enactments so as to secure or improve compliance with international standards and obligations; and for connected purposes.

Approved by the Council of Ministers
for introduction in the House of Keys.

MR WATTERSON

NOVEMBER 2015