



Nuclear Material (Offences) Act 1983

CHAPTER 18

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ELIZABETH II



Nuclear Material (Offences) Act 1983

1983 CHAPTER 18

An Act to implement the Convention on the Physical Protection of Nuclear Material; and for purposes connected therewith. [9th May 1983]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) If a person, whatever his nationality, does outside the United Kingdom, in relation to or by means of nuclear material, any act which, had he done it in any part of the United Kingdom, would have made him guilty of—

Extended scope of certain offences.

- (a) the offence of murder, manslaughter, culpable homicide, assault to injury, malicious mischief or causing injury, or endangering the life of the lieges, by reckless conduct, or
- (b) an offence under section 18 or 20 of the Offences against the Person Act 1861 or section 1 of the Criminal Damage Act 1971 or Article 3 of the Criminal Damage (Northern Ireland) Order 1977 or section 78 of the Criminal Justice (Scotland) Act 1980, or
- (c) the offence of theft, embezzlement, robbery, assault with intent to rob, burglary or aggravated burglary, or
- (d) the offence of fraud or extortion or an offence under section 15 or 21 of the Theft Act 1968 or section 15 or 20 of the Theft Act (Northern Ireland) 1969,

1861 c. 100.
1971 c. 48.
S.I. 1977/426.
1980 c. 62.
1968 c. 60.
1969 c. 16(N.I.).

he shall in any part of the United Kingdom be guilty of such of the offences mentioned in paragraphs (a) to (d) above as are offences of which the act would have made him guilty had he done it in that part of the United Kingdom.

(2) In this section and in section 2 below, “act” includes omission.

Offences involving preparatory acts and threats.

2.—(1) If a person, whatever his nationality, in the United Kingdom or elsewhere contravenes subsection (2), (3) or (4) below he shall be guilty of an offence.

(2) A person contravenes this subsection if he receives, holds or deals with nuclear material—

- (a) intending, or for the purpose of enabling another, to do by means of that material an act which is an offence mentioned in paragraph (a) or (b) of subsection (1) of section 1 above; or
- (b) being reckless as to whether another would so do such an act.

(3) A person contravenes this subsection if he—

- (a) makes to another person a threat that he or any other person will do by means of nuclear material such an act as is mentioned in paragraph (a) of subsection (2) above; and
- (b) intends that the person to whom the threat is made shall fear that it will be carried out.

(4) A person contravenes this subsection if, in order to compel a State, international governmental organisation or person to do, or abstain from doing, any act, he threatens that he or any other person will obtain nuclear material by an act which is an offence mentioned in paragraph (c) of subsection (1) of section 1 above.

(5) A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding fourteen years and not exceeding the term of imprisonment to which a person would be liable for the offence constituted by doing the contemplated act at the place where the conviction occurs and at the time of the offence to which the conviction relates.

(6) In subsection (5) above “contemplated act” means,—

- (a) where the conviction relates to an offence under subsection (2) above, the act intended or as to the doing of which the person convicted was reckless, as the case may be; and
- (b) where the conviction relates to an offence under subsection (3) or (4) above, the act threatened.

(7) In this section references to an act which is an offence mentioned in paragraph (a), (b) or (c) of subsection (1) of section 1 above are references to an act which, by virtue of that subsection or otherwise, is an offence so mentioned.

3.—(1) Proceedings for an offence which (disregarding the Supplemental provisions of the Internationally Protected Persons Act 1978 and 1978 c. 17. the Suppression of Terrorism Act 1978) would not be an offence 1978 c. 26. apart from the preceding provisions of this Act shall not be begun—

- (a) in England and Wales, except by or with the consent of the Attorney General; or
- (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.

(2) Without prejudice to any jurisdiction exercisable apart from this subsection, every sheriff court in Scotland shall have jurisdiction to entertain proceedings for an offence which (disregarding the provisions of the Internationally Protected Persons Act 1978 and the Suppression of Terrorism Act 1978) would not be an offence in Scotland apart from the preceding provisions of this Act.

4.—(1) In consequence of the provisions of this Act—

Amendments
of other Acts.

(a) in subsections (1) and (2) of section 2 of the Internationally Protected Persons Act 1978 (which relates to certain offences committed outside the United Kingdom) after the words “Suppression of Terrorism Act 1978” there shall be inserted in each place the words “and the Nuclear Material (Offences) Act 1983”; and

(b) in subsections (4) and (5) of section 4 of the Suppression of Terrorism Act 1978 (which also relates to certain offences committed outside the United Kingdom) after the words “Internationally Protected Persons Act 1978” there shall be inserted in each place the words “and the Nuclear Material (Offences) Act 1983”.

(2) In the Schedule to the Visiting Forces Act 1952 (which 1952 c. 67. specifies the offences which are offences against the person and against property for the purposes of section 3 of that Act)—

(a) at the end of each of paragraphs 1, 2 and 4 there shall be inserted the following sub-paragraph—

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

- (i) in the case of a contravention of subsection (2), the act falling within paragraph (a) or (b) of that subsection would, had it been

done, have constituted an offence falling within sub-paragraph (a) or (b) of this paragraph, or

- (ii) in the case of a contravention of subsection (3) or (4), the act threatened would, had it been done, have constituted such an offence”; and

- (b) at the end of paragraph 3 there shall be inserted the following sub-paragraph—

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

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

1978 c. 5.

- (3) In Part I of Schedule 4 to the Northern Ireland (Emergency Provisions) Act 1978 (scheduled offences for the purposes of that Act),—

- (a) in paragraph 12, for the words “ note 4 ” there shall be substituted the words “ notes 4 and 5 ” and at the end there shall be added the following sub-paragraphs—

- “ (c) section 1 (theft) ;
- (d) section 9 (burglary) ;
- (e) section 15 (obtaining property by deception) ;
- (f) section 20 (blackmail) ” ;

1982 c. 28.

- (b) the paragraph inserted by section 2(3) of the Taking of Hostages Act 1982 as paragraph 19A shall be re-numbered 19B and after that paragraph there shall be inserted the following—

“ *Nuclear Material (Offences) Act 1983*

19C. Offences under section 2 of the Nuclear Material (Offences) Act 1983 (offences involving nuclear material: preparatory acts and threats)”; and

- (c) in the Notes, for note 4 there shall be substituted the following notes—

“ 4. Robbery and aggravated burglary are scheduled offences only where it is charged—

- (a) that an explosive, firearm, imitation firearm or weapon of offence was used to commit the offence ; or
- (b) that the offence was committed in relation to or by means of nuclear material within the meaning of the Nuclear Material (Offences) Act 1983 ;

and expressions defined in section 10 of the Theft 1969 c. 16. Act (Northern Ireland) 1969 have the same meaning (N.I.) when used in this note.

5. An offence under section 1, 9, 15 or 20 of the Theft Act (Northern Ireland) 1969 is a scheduled offence only where it is charged that the offence was committed in relation to or by means of nuclear material within the meaning of the Nuclear Material (Offences) Act 1983.”

5.—(1) There shall be deemed to be included—

(a) in the list of extradition crimes in Schedule 1 to the Extradition Act 1870, and

(b) among the description of offences set out in Schedule 1 to the Fugitive Offenders Act 1967,

any offence under section 2 of this Act.

Extradition.

1870 c. 52.

1967 c. 68.

(2) Where no such arrangement as is mentioned in section 2 of the Extradition Act 1870 has been made with a State which is a party to the Convention, an Order in Council applying the Act of 1870 may be made under that section as if the Convention were such an arrangement with that State ; but where the Act of 1870 is so applied it shall have effect as if the only extradition crimes within the meaning of that Act were—

(a) an offence mentioned in paragraphs (a) to (d) of subsection (1) of section 1 of this Act which is committed by doing an act in relation to or by means of nuclear material ;

(b) an offence under section 2 of this Act ; and

(c) an attempt to commit an offence mentioned in paragraph (a) or (b) above.

(3) For the purposes of the Extradition Act 1870 any act, wherever committed, which—

(a) is an offence mentioned in subsection (2) above, and

(b) is an offence against the law of any State in the case of which that Act is applied by an Order in Council under section 2 of that Act,

shall be deemed to be an offence committed within the jurisdiction of that State.

(4) In this section and in section 6 below “the Convention” means the Convention on the Physical Protection of Nuclear Material opened for signature at Vienna and New York on 3rd March 1980.

Material to which the Act applies.

6.—(1) References in this Act to nuclear material are references to material which, within the meaning of the Convention, is nuclear material used for peaceful purposes.

(2) If in any proceedings a question arises whether any material was used for peaceful purposes, a certificate issued by or under the authority of the Secretary of State and stating that it was, or was not, so used at a time specified in the certificate shall be conclusive of that question.

(3) In any proceedings a document purporting to be such a certificate as is mentioned in subsection (2) above shall be taken to be such a certificate unless the contrary is proved.

(4) Paragraphs (a) and (b) of Article 1 of the Convention (which give the definition of “nuclear material” for the purposes of the Convention) are set out in the Schedule to this Act.

Application to Channel Islands, Isle of Man, etc.
1870 c. 52.
1967 c. 68.

7.—(1) Sections 17 and 22 of the Extradition Act 1870 and sections 16 and 17 of the Fugitive Offenders Act 1967 (application to Channel Islands, Isle of Man and colonies) shall extend respectively to the provisions of this Act amending those Acts.

(2) Her Majesty may by Order in Council make provision for extending the other provisions of this Act, with such exceptions, adaptations or modifications as may be specified in the Order, to any of the Channel Islands, the Isle of Man or any colony.

Short title and commencement.

8.—(1) This Act may be cited as the Nuclear Material (Offences) Act 1983.

(2) This Act shall come into force on such day as Her Majesty may by Order in Council appoint.

SCHEDULE

Section 6.

ARTICLE 1(a) AND (b) OF THE CONVENTION

ARTICLE 1

For the purposes of this Convention :

- (a) "nuclear material" means plutonium except that with isotopic concentration exceeding 80% in plutonium-238 ; uranium-233 ; uranium enriched in the isotopes 235 or 233 ; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue ; any material containing one or more of the foregoing ;
- (b) "uranium enriched in the isotope 235 or 233 " means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature.

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