STATUTORY INSTRUMENTS

1987 No. 2045

PREVENTION AND SUPPRESSION OF TERRORISM

The Suppression of Terrorism Act 1978 (Hong Kong) Order 1987

Made - - - -	*26th November 1987*
Laid before Parliament	*4th December 1987*
Coming into force -	*1st January 1988*

At the Court at Buckingham Palace, the 26th day of November 1987

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 7(3) of the Suppression of Terrorism Act 1978**(a)**, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Suppression of Terrorism Act 1978 (Hong Kong) Order 1987 and shall come into force on 1st January 1988.

2.—(1) Subject to Article 3 below, sections 1, 2, 3, 4, 5, 8 and 9 of the Suppression of Terrorism Act 1978 and Schedule 1 thereto, modified and adapted as in the Schedule hereto, shall extend to Hong Kong.

(2) For the purpose of construing the said Act as so extended as part of the law of Hong Kong "the Territory" means the territory of Hong Kong including its territorial waters.

3. The aforesaid provisions of the said Act shall apply in Hong Kong in relation to any Commonwealth country, foreign state or United Kingdom dependency in respect of which an order is or may be made under section 5(1) of the Act as it applies in the United Kingdom in accordance with the terms of the relevant order but, save to the extent that it is necessary to take account of the words "convention country" in order to determine the way in which such provisions apply in relation to any such Commonwealth country, foreign state or United Kingdom dependency, they shall not apply in relation to a convention country until an order bringing the Act into force for that purpose has been made in Hong Kong by the Governor under section 9(3) of the Act, modified and adapted as in the Schedule hereto.

G.I. de Deney
Clerk of the Privy Council

(a) 1978 c.26.

Sections 1, 2, 3, 4, 5, 8 and 9 of the Suppression of Terrorism Act 1978 and Schedule 1 thereto as extended to Hong Kong.

1.—(1) This section applies to any offence of which a person is accused or has been convicted outside the Territory if the act constituting the offence, or the equivalent act, would, if it took place in the Territory or, in the case of an extraterritorial offence, in corresponding circumstances outside the Territory, constitute one of the offences listed in Schedule 1 to this Act.

(2) For the purposes mentioned in subsection (3) below–

(a) no offence to which this section applies shall be regarded as an offence of a political character; and

(b) no proceedings in respect of an offence to which this section applies shall be regarded as a criminal matter of a political character or as criminal proceedings of a political character.

(3) Those purposes are–

(a) the purposes of the Extradition Act 1870 in relation to any requisition for the surrender of a fugitive criminal made on behalf of a convention country after the coming into force of this paragraph;

(b) the purposes of the Fugitive Offenders Act 1967 as extended to the Territory in relation to any request for the return of a person under that Act made on behalf of a convention country after the coming into force of this paragraph; and

(c) the purposes of section 5 of the Extradition Act 1873 (evidence for foreign criminal matters) and section 5 of the Evidence (Proceedings in Other Jurisdictions) Act 1975 (evidence for criminal proceedings outside the Territory) as extended to the Territory (or the equivalent provision in the law of the Territory) in relation to any criminal proceedings instituted in a convention country (not being the Republic of Ireland) after the coming into force of this paragraph.

2. In relation to any requisition for surrender of a fugitive criminal made as mentioned in section 1(3)(a) above in respect of an offence to which section 1 above applies, the Extradition Act 1870 shall have effect as if at the end of paragraph (1) of section 3 (which prohibits the surrender of a criminal if he proves as there mentioned that the requisition of his surrender has in fact been made with a view to try or punish him for an offence of a political character) there were added the words "or with a view to try or punish him on account of his race, religion, nationality, or political opinions, or that he might, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions".

3.—(1) There shall be deemed to be included in the list of extradition crimes contained in Schedule 1 to the Extradition Act 1870–

(a) any offence under the Explosive Substances Act 1883;

(b) any indictable offence under the Firearms Act 1968; and

(c) any attempt to commit any of the crimes in that list (including crimes added to it after the coming into force of this subsection), to the extent that any such attempt is not already an extradition crime under the law of the Territory.

(2) There shall be deemed to be included among the description of offences set out in Schedule 1 to the Fugitive Offenders Act 1967 as extended to the Territory–

(a) any indictable offence under the Offences against the Person Act 1861;

(b) any offence under the Explosive Substances Act 1883; and

(c) any indictable offence under the Firearms Act 1968.

4.—(1) If a person, whether a United Kingdom national or not, does in a convention country any act which, if he had done it in the Territory, would have made him guilty in the Territory of–

(a) an offence mentioned in paragraph 1, 2, 4, 5, 10, 11, 12, 13 or 14 of Schedule 1 to this Act; or

(b) an offence of attempting to commit any offence so mentioned,

he shall, in the Territory, be guilty of the offence or offences aforesaid of which the act would have made him guilty if he had done it there.

(2) If a person, whether a United Kingdom national or not, does in a convention country any act to or in relation to a protected person which, if he had done it in the Territory, would have made him guilty in the Territory of–

(a) an offence mentioned in paragraph 3, 6, 8 or 9 of Schedule 1 to this Act; or

(b) an offence of attempting to commit any offence so mentioned,

he shall, in the Territory, be guilty of the offence or offences aforesaid of which the act would have made him guilty if he had done it there.

For the purposes of this subsection it is immaterial whether a person knows that another person is a protected person.

(3) If a person who is a national of a convention country but not a United Kingdom national does outside the Territory and that convention country any act which makes him in that convention country guilty of an offence and which, if he had been a United Kingdom national would have made him in the Territory guilty of an offence mentioned in paragraph 1, 2, or 13 of Schedule 1 to this Act, he shall, in the Territory, be guilty of the offence or offences aforesaid of which the act would have made him guilty if he had been a United Kingdom national.

(4) Proceedings for an offence which would not be an offence apart from this section shall not be instituted except by or with the consent of the Attorney General of the Territory.

(5) In this section the expression "Attorney General" includes the Solicitor-General.

(6) In this section "a protected person" means, in relation to any such act as is mentioned in subsection (2) above, any of the following, namely–

(a) a person who at the time of the act is a Head of State, a member of a body which performs the functions of Head of State, a member of a body which performs the functions of Head of State under the constitution of the State, a Head of Government or a Minister for Foreign Affairs and is outside the territory of the State in which he holds office;

(b) a person who at the time of the act is a representative or an official of a State or an official or agent of an international organisation of an intergovernmental character, is entitled under international law to special protection from attack on his person, freedom or dignity and does not fall within the preceding paragraph;

(c) a person who at the time of the act is a member of the family of another person mentioned in either of the preceding paragraphs and–

(i) if the other person is mentioned in paragraph (a) above, is accompanying him, or

(ii) if the other person is mentioned in paragraph (b) above, is a member of his household;

and if in any proceedings a question arises as to whether a person is or was a protected person, a certificate issued by or under the authority of the Governor and stating any fact relating to the question shall be conclusive evidence of that fact.

(7) For the purposes of this section any act done–

(a) on board a ship registered in a convention country, being an act which, if the ship had been registered in the United Kingdom or the Territory, would have constituted an offence within the jurisdiction of the Admiralty; or

(b) on board an aircraft registered in a convention country while the aircraft is in flight elsewhere than in or over the country; or

(c) on board a hovercraft registered in a convention country while the hovercraft is in journey elsewhere than in or over that country,

shall be treated as done in that convention country; and section 7(2) of the Tokyo Convention Act 1967 (meaning of "in flight" or, as applied to hovercraft, "in journey") as extended to the Territory shall apply for the purposes of this subsection as it applies for the purposes of section 1 of that Act.

5. In the case of any country which, not being a convention country, is either–

(a) a designated Commonwealth country within the meaning of the Fugitive Offenders Act 1967 as extended to the Territory; or

(b) a foreign state with which there is in force an arrangement of the kind described in section 2 of the Extradition Act 1870 with respect to the surrender to that state of fugitive criminals; or

(c) a United Kingdom dependency within the meaning of the Fugitive Offenders Act 1967, as extended to the Territory,

where the Secretary of State has by an order made under section 5(1) of this Act as it applies in the United Kingdom directed

(i) in the case of a country within paragraph (a) or (b) above, that all or any of the provisions of this Act which would, apart from this section, apply only in relation to convention countries shall apply in relation to that country (subject to such exceptions, if any, as may be specified in the order) as they apply in relation to a convention country; or

(ii) in the case of a country within paragraph (c) above, that the provisions of section 4 above shall so apply in relation to that country;

and while such an order is in force in the case of any such country, the provisions in question shall apply in relation to it accordingly, whether this Act has come into force in the Territory for the purposes of arrangements between the Territory and a convention country or not.

8.—(1) In this Act–

"act" includes omission;

"convention country" means a country for the time being designated in an order made under this Act as it applies in the United Kingdom by the Secretary of State as a party to the European Convention on the Suppression of Terrorism signed at Strasbourg on the 27th January 1977;

"country" includes any territory;

"United Kingdom national" means a British citizen, British Dependent Territories citizen, a British Overseas citizen or a British National (Overseas).

(2) Except so far as the context otherwise requires, any reference in this Act to an enactment is a reference to it as amended by or under any other enactment, including this Act.

(3) For the purposes of this Act sections 18, 20, 21, 22, 23, 24, 28, 29, 30, 48, 55 and 56 of the Offences against the Person Act 1861, sections 1 and 20 of the Sexual Offences Act 1956, sections 2 and 3 of the Explosive Substances Act 1883, sections 16 and 17 of the Firearms Act 1968 and section 1 of the Criminal Damage Act 1971, if not already in force in the Territory, shall be deemed to be in force as they are in force in England.

9.—(1) This Act may be cited as the Suppression of Terrorism Act 1978.

(3) This Act shall come into force on 1st January 1987 save that, in relation to a convention country, it shall come into force on such day as the Governor may by order appoint and different days may be so appointed for different purposes.

SCHEDULE 1 TO THE ACT

Sections 1 and 4

LIST OF OFFENCES

Common law offences

1. Murder.

2. Manslaughter or culpable homicide.

3. Rape.

4. Kidnapping, abduction or plagium.

5. False imprisonment.

6. Assault occasioning actual bodily harm or causing injury.

7. Wilful fire-raising.

Offences against the person

8. An offence under any of the following provisions of the Offences against the Person Act 1861–

(a) section 18 (wounding with intent to cause grievous bodily harm);

(b) section 20 (causing grievous bodily harm);

(c) section 21 (attempting to choke etc. in order to commit or assist in the committing of any indictable offence);

(d) section 22 (using chloroform etc. to commit or assist in the committing of any indictable offence);

(e) section 23 (maliciously administering poison etc. so as to endanger life or inflict grievous bodily harm);

(f) section 24 (maliciously administering poison etc. with intent to injure etc.);

(g) section 48 (rape).

9. An offence under section 1 of the Sexual Offences Act 1956 (rape).

Abduction

10. An offence under any of the following provisions of the Offences against the Person Act 1861–

(a) section 55 (abduction of unmarried girl under 16);

(b) section 56 (child-stealing or receiving stolen child).

11. An offence under section 20 of the Sexual Offences Act 1956 (abduction of unmarried girl under 16).

Taking of Hostages

11A. An offence under the Taking of Hostages Act 1982.

Explosives

12. An offence under any of the following provisions of the Offences against the Person Act 1861–

(a) section 28 (causing bodily injury by gunpowder);

(b) section 29 (causing gunpowder to explode etc. with intent to do grievous bodily harm);

(c) section 30 (placing gunpowder near a building etc. with intent to cause bodily injury).

13. An offence under any of the following provisions of the Explosive Substances Act 1883–

(a) section 2 (causing explosion likely to endanger life or property);

(b) section 3 (doing any act with intent to cause such an explosion, conspiring to cause such an explosion, or making or possessing explosive with intent to endanger life or property).

Firearms

14. The following offences under the Firearms Act 1968–

(a) an offence under section 16 (possession of firearm with intent to injure);

(b) an offence under subsection (1) of section 17 (use of firearm or imitation firearm to resist arrest) involving the use or attempted use of a firearm within the meaning of that section.

Offences against property

16. An offence under section 1(2) of the Criminal Damage Act 1971 (destroying or damaging property intending to endanger life or being reckless as to danger to life).

Offences in relation to aircraft

18. An offence under the Hijacking Act 1971.

19. An offence under Part I of the Protection of Aircraft Act 1973.

Attempts

20. An offence of attempting to commit any offence mentioned in a preceding paragraph of this Schedule.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends sections 1, 2, 3, 4, 5, 8 and 9 of, and Schedule 1 to, the Suppression of Terrorism Act 1978, subject to exceptions, adaptations and modifications, to Hong Kong.

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