

Explanatory Memorandum to Tynwald Members

Issued by the Cabinet Office.

To the Hon Stephen Rodan MLC, President of Tynwald and the Hon Council and Keys in Tynwald assembled

1. Title of measure

(Draft) Anti-Terrorism and Crime Act (Compliance With International Standards) Order 2017.

2. Changes in policy

None. This Order implements the Isle of Man Government's previously agreed policy of compliance with international standards.

3. Effects of the measure

This Order amends the Anti-Terrorism and Crime Act 2003 ("the Act").

Article 4 amends the Act by inserting a definition of "terrorist organisation" which includes a proscribed organisation or an organisation that directly or indirectly commits, prepares, instigates or facilitates the commission, preparation or instigation of an act of terrorism.

Article 7 amends the Act by inserting section 9A (financing travel) which makes it an offence for a person (A) to finance the travel of a person (B) whose travel is for the purpose of the perpetration, planning, preparation of or participation in an act of terrorism or for the provision or receipt of terrorist training and A knows, or has cause to believe, that was the purpose of B's travel. Section 9A also specifies the penalties for such an offence.

Article 9 amends the Act by inserting section 10A (offences committed outside the Island) which specifies that where a resident of the Island does an act outside the Island which, had it been done in the Island, would have constituted a money laundering offence under section 10 of the Act, that act is to be treated as if it had been done in the Island and the proceedings for the offence may be brought against the person in the Island.

Articles 5, 6, 8, 10 and 11 make minor amendments to the Act, consequent on the above amendments.

4. Reasons for the measure

This Order amends the Act in order to implement recommendations made in the MONEYVAL Fifth Round Mutual Evaluation Report of the Isle of Man, which was published in January 2017. MONEYVAL is the Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism and is a permanent monitoring body of the Council of Europe.

The MONEYVAL assessors considered that changes are required to the Terrorist Financing offence of criminalising the funding of unproscribed terrorist organisations for legitimate purposes. Changes are also required to criminalise the financing of travel of individuals for the purpose of preparing, planning, or participating in terrorist acts, or providing or receiving terrorist training. Furthermore, should a resident of the IOM commit a terrorist offence in another country or territory that

would constitute a terrorist offence in the IOM, changes to legislation are required such that the offence can be treated as having been committed in the IOM and proceedings taken accordingly.

This Order rectifies these deficiencies by amending sections or creating new sections within the Act. This Order is made under section 76B of the Act, which provides that the Council of Ministers may amend the Act in connection with the implementation of relevant international obligations or standards, or the recommendations of international bodies. The definition of international bodies includes MONEYVAL. The definition of international obligations or standards, includes the FATF Recommendations, against which MONEYVAL assessed the Island in order to produce its Mutual Evaluation Report.

5. Resource implications

None.

6. Tynwald procedure

Section 76B(5)(b) of the Anti-Terrorism and Crime Act 2003 states that an Order cannot be made under the relevant sections of the section 222A of that Act unless a draft of the proposed Order has been laid before a sitting of Tynwald and that draft is approved at a subsequent sitting of Tynwald. As a result, the draft Order was laid before the November 2017 sitting of Tynwald and approval is sought at the December 2017 sitting of Tynwald.