

TERRORISM ACT 2005**Principal Act**

Act. No. 2005-43	<i>Commencement</i>	2.8.2005
	<i>Assent</i>	2.8.2005

Amending enactments	Relevant current provisions	Commencement date
Act. 2007-38	ss. 2, 9, 9A & 10A	(2008/006)14.2.2008

English sources
None cited

EU Legislation/International Agreements involved:

Decision 2002/475/JHA
Directive 2005/60/EC

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AN ACT TO MAKE PROVISION FOR THE PURPOSE OF IMPLEMENTING THE COUNCIL FRAMEWORK DECISION 2002/475/JHA OF 13 JUNE 2002 ON COMBATING TERRORISM; AND FOR CONNECTED PURPOSES.

PART I

Preliminary.

Title.

1. This Act may be cited as the Terrorism Act 2005.

Interpretation.

2. In this Act, unless the context otherwise requires—

“act” and “action” include omission;

“article” includes substance and any other thing;

“biological agent” means any microbiological or other biological agent;

“conduct” includes acts, omissions and statements;

“criminal conduct” means any conduct which constitutes an offence in Gibraltar or would constitute an offence in Gibraltar if it occurred there;

“Gibraltar Financial Intelligence Unit” and “GFIU” means that body comprised of police officers and customs officers with responsibility, inter alia, for receiving, processing, analysing and disseminating information relating to suspect financial transactions;

“Gibraltar resident” means a person resident in Gibraltar whether or not by virtue of a certificate or permit of residence issued under the Immigration Control Act;

“information” includes documents;

“part”, in relation to property, includes a portion;

“proscribed” shall be construed in accordance with sections 15 and 16;

“restraint order” means an order made under section 13.

Terrorism.

3.(1) In this Act, “terrorism” means the use or threat of action where–

- (a) the use or threat is designed to–
 - (i) intimidate the public or a section of the public;
 - (ii) compel the government to perform or abstain from performing any act;
 - (iii) destabilise or destroy the Government or the economic or social structure of Gibraltar; and
- (b) the action falls within subsection (2).

(2) An action falls within subsection (1)(b) if that action–

- (a) is an attack upon another person which may cause death;
- (b) involves serious violence against a person;
- (c) causes serious damage to property;
- (d) endangers a person’s life, other than that of the person committing the act;
- (e) results in major economic loss to Gibraltar;
- (f) involves the seizure of aircraft, ships or other means of public or goods transport;
- (g) is an offence under section 3, 9,10 or 43 of the Weapons of Mass Destruction Act 2004; or
- (h) is an offence under section 22, 23 or 24 of this Act.

(3) In this section–

- (a) “action” includes action outside Gibraltar;
- (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 Gibraltar; and

- (d) “the government” means the Government of Gibraltar or of a country or territory other than Gibraltar.

(4) In this Act, “act of terrorism” shall be construed according to this section.

Terrorist property.

4.(1) In this Act “terrorist property” means–

- (a) money or other property which is likely to be used for the purposes of terrorism;
- (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 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.

(3) 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–

- (a) in relation to land, it is a reference to any interest which he holds in the land;
- (b) in relation to property other than land, it is a reference–
 - (i) to the property, if it belongs to him; or
 - (ii) to any other interest which he holds in the property.

PART II

Offences relating to finance, etc..

Raising funds for terrorism.

5.(1) A person commits an offence if that person–

- (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 that person–

- (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 that person—

- (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.

Use and possession of money or other property for terrorism.

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

(2) A person commits an offence if that person—

- (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.

Arranging funds for terrorism.

7. A person commits an offence if that person—

- (a) 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) knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

Arrangement for retention or control of terrorist property.

8.(1) A person commits an offence if that person enters into or becomes concerned in an arrangement of terrorist property—

- (a) by concealment;
- (b) by removal from the jurisdiction;

- (c) by transfer to nominees; or
- (d) in any other way,

which facilitates the retention or control by or on behalf of another person of such property.

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

Exceptions for cooperation with GFIU.

9.(1) A person does not commit an offence under any of sections 5 to 8 if that person is acting with the express consent of the GFIU.

(2) Subject to subsections (3) and (4), a person does not commit an offence under any of sections 5 to 8 by involvement in a transaction or arrangement relating to money or other property if that person discloses to the GFIU –

- (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 that person becomes involved in the transaction or arrangement 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) the GFIU 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 5(2) and (3) and 6 to 8 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 the GFIU under subsection (2),

this section shall have effect in relation to that person as if any reference to disclosure to the GFIU 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.

Exception for certain professionals.

9A. A person shall not be required to make a disclosure to the GFIU under section 9 if—

- (a) that person is a notary, independent legal professional, auditor, external accountant or tax advisor, and
- (b) the information has been obtained on or received from one of their clients—
 - (i) in the course of ascertaining the legal position for their client; or
 - (ii) whilst performing the task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings,

whether such information is received or obtained before, during or after such proceedings.

Penalties for offences under sections 5 to 8.

10. A person guilty of an offence under any of sections 5 to 8 shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or to a fine or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 4 on the standard scale.

Disclosure to GFIU not a breach.

10A. The disclosure by a person to the GFIU under section 9 shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise.

Forfeitures in connection with offences under sections 5 to 8.

11.(1) The court, by or before which a person is convicted of an offence under any of sections 5 to 8, may make a forfeiture order in accordance with the provisions of this section.

(2) Where a person is convicted of an offence under section 5(1) or (2) or section 6, the court may order the forfeiture of any money or other property—

- (a) which, at the time of the offence, that person had in his possession or under his control; and
- (b) which, at that time, that person 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 5(3) the court may order the forfeiture of any money or other property—

- (a) which, at the time of the offence, that person had in his possession or under his control; and
- (b) which, at that time, that person 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 7 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 8 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 5 to 8, 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 that can be forfeited by an order under this section, the court shall give him an opportunity to be heard before making an order.

Implementation of forfeiture orders made under section 11.

12.(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 Government;
- (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 Government;
- (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 Government;
- (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 Government to a specified person falling within section 11 (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 subsection (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) A receiver appointed under subsection (1) shall be entitled to be paid his remuneration and expenses out of the proceeds of the property realised by the receiver and paid to the proper officer under subsection(1)(c).

(5) The receiver shall, if, and insofar as those proceeds are insufficient, be entitled to be paid his remuneration and expenses out of the funds of the Government of Gibraltar.

(6) A receiver appointed under subsection (1) shall not be liable to any person in respect of any loss or damage resulting from action which he—

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

(7) Subsection (6) does not apply in so far as the loss or damage is caused by the receiver's negligence.

(8) The Registrar of the Supreme Court 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 11(7) before making the order.

(9) 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.

13.(1) The Supreme Court may make a restraint order under this section where—

- (a) proceedings have been instituted for an offence under any of sections 5 to 8;
- (b) the proceedings have not been concluded;
- (c) an application for a restraint order is made to the Supreme Court by the prosecutor; and
- (d) a forfeiture order has been made, or it appears to the Supreme Court that a forfeiture order may be made, in the proceedings for the offence.

(2) The Supreme Court may also make a restraint order under this section where—

- (a) a criminal investigation has been started with regard to an offence under any of sections 5 to 8;
- (b) an application for a restraint order is made to the Supreme Court by a person who the Supreme Court is satisfied will have the conduct of any proceedings for the offence; and
- (c) it appears to the Supreme 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 subsection (1) or (2).

(4) An application for a restraint order may be made ex parte to the Chief Justice in Chambers.

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

Discharge or variation of restraint orders.

14.(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 Supreme Court on the application of a person affected by it.

(3) A restraint order made under section 13(1) shall, in particular, be discharged on an application under subsection (2) if the proceedings for the offence have been concluded.

(4) A restraint order made under section 13(2) shall, in particular, be discharged on an application under subsection (2)–

- (a) if no proceedings in respect of offences under any of sections 5 to 8 are instituted within such time as the Supreme Court considers reasonable; or
- (b) if all proceedings in respect of offences under any of sections 5 to 8 have been concluded.

PART III

Offences relating to proscribed organisations.

Attachment to proscribed organisation.

15.(1) A person commits an offence if that person 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 that—

- (a) the organisation was not proscribed on the last occasion on which that person became a member or began to profess to be a member; and
- (b) that that person 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 imprisonment for a term not exceeding ten years, to a fine or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the level 4 on the standard scale or to both.

Support for proscribed organisation.

16.(1) A person commits an offence if—

- (a) that person 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 5).

(2) A person commits an offence if that person arranges, manages or assists in arranging or managing a meeting which that person knows is to—

- (a) support a proscribed organisation;
- (b) further the activities of a proscribed organisation; or
- (c) be addressed by a person who belongs or professes to belong to a proscribed organisation.

(3) A person commits an offence if that person 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 that person 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 three 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 imprisonment for a term not exceeding ten years, to a fine at level 5 on the standard scale or to both; or

(b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the level 4 on the standard scale or to both.

Using items or clothes, etc. for proscribed organisation.

17.(1) A person in a public place commits an offence if that person–

(a) wears an item of clothing; or

(b) wears, carries or displays an article,

in such a way or in such circumstances as to arouse reasonable suspicion that that person 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 imprisonment for a term not exceeding six months, a fine not exceeding level 4 on the standard scale, or to both.

PART IV

Miscellaneous terrorist offences.

Weapons training.

18.(1) A person commits an offence if that person provides instruction or training in the making or use of–

(a) firearms;

(b) explosives; or

(c) chemical, biological or nuclear weapons.

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

(a) firearms;

(b) explosives; or

(c) chemical, biological or nuclear weapons.

(3) A person commits an offence if that person invites another person 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 Gibraltar.

(4) 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.

(5) 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.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding ten years, to a fine or to both; or

(b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding level 5 on the standard scale or to both.

(7) The 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.

(8) Before making an order under subsection (7) the court shall 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.

(9) An order under subsection (7) 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).

(10) In this section—

“biological weapon” means anything to which section 3 of the Weapons of Mass Destruction Act 2004 applies;

“chemical weapon” has the meaning given to it by section 9 of the Weapons of Mass Destruction Act 2004; and

“nuclear weapon” means a weapon which contains nuclear material within the meaning of Article 1(a) and (b) of the Convention on the Physical Protection of Nuclear Material opened for signature at Vienna and New York on 3rd March 1980.

Directing terrorist organisation.

19.(1) A person commits an offence if that person 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 indictment to imprisonment for life.

Possession for terrorist purposes.

20.(1) A person commits an offence if that person 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 was on—

(a) any premises at the same time as the accused; or

- (b) 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 imprisonment for a term not exceeding 10 years, to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding level 4 on the standard scale or to both.

Collection of information.

- 21.(1) A person commits an offence if that person—
 - (a) 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) 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 imprisonment for a term not exceeding 10 years, to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding level 4 on the standard scale or to both.
- (5) The 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) the court shall 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 the court to grant leave to appeal out of time).

Use of noxious substances or things to cause harm and intimidate.

22.(1) A person who takes any action which—

- (a) involves the use of a noxious substance or other noxious thing;
- (b) has or is likely to have 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 has an effect falling 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 person or another person 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 conviction on indictment, to imprisonment for a term not exceeding fourteen years or a fine or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 4 on the standard scale or to both.

(5) In this section—

“Government” means the Government of Gibraltar or of a country or territory other than Gibraltar; and

“public” includes the public of a country or territory other than the Gibraltar.

(6) For the purposes of this section “substance” includes any biological agent and any other natural or artificial substance (whatever its form, origin or method of production).

(7) For a person to be guilty of an offence under this section it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief in question.

Hoaxes involving noxious substances or things.

23.(1) A person is guilty of an offence if that person—

- (a) places any substance or other thing in any place; or
- (b) sends any substance or other 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 to be or it contains a noxious substance or other noxious thing and thereby endanger human life or create a serious risk to human health.

(2) A person is guilty of an offence if that person communicates any information which that person knows or believes to be false with the intention of inducing in a person anywhere in the world a belief that a noxious substance or other noxious thing is likely to be present (whether at the time the information is communicated or later) in any place and thereby endanger human life or create a serious risk to human health.

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

- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 4 on the standard scale or to both.

(4) For the purposes of this section “substance” includes any biological agent and any other natural or artificial substance (whatever its form, origin or method of production).

(5) For a person to be guilty of an offence under this section it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief in question.

Hostage-taking.

24.(1) Where a person who is either a Gibraltarian or Gibraltar resident—

- (a) detains any other person (“the hostage”); and
- (b) in order to compel a Government, international organization or a person to do or abstain from doing any act, threatens to kill, injure or continue to detain the hostage,

commits an offence.

(2) A person guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for life.

PART V

Extra-territorial jurisdiction for terrorist offences.

Inciting terrorism outside Gibraltar.

25.(1) A person commits an offence if—

- (a) that person incites another person to commit an act of terrorism wholly or partly outside Gibraltar; and
- (b) the act would, if committed in Gibraltar, constitute one of the offences listed in subsection (2).

(2) The offences referred to in subsection (1) are—

- (a) an offence under section 59 of the Criminal Offences Act¹ (murder);
- (b) an offence under section 75 of the Criminal Offences Act (wounding with intent);
- (c) an offence under section 79 of the Criminal Offences Act (poison);and
- (d) an offence under section 83 or 84 of the Criminal Offences Act (explosions).

(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 Gibraltar at the time of the incitement.

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

Terrorist bombing offences: jurisdiction.

26.(1) If–

- (a) a person does anything outside Gibraltar 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 Gibraltar,

that person shall be guilty of an offence.

(2) The offences referred to in subsection (1)(b) are–

- (a) an offence under section 83, 84 or 58 of the Criminal Offences Act (causing explosions, etc.); and
- (b) an offence under section 3 or 10 of the Weapons of Mass Destruction Act 2004².

Terrorist finance offences: jurisdiction.

¹ 1960-17

² 2004-19

27.(1) If—

- (a) a person does anything outside Gibraltar; and
- (b) his action would have constituted the commission of an offence under any of sections 5 to 8 if it had been done in Gibraltar,

that person shall be guilty of an offence.

(2) For the purposes of subsection (1)(b), section 8(1)(b) shall be read as if for “the jurisdiction” there were substituted “a jurisdiction”.

Terrorist attacks abroad by Gibraltarians or Gibraltar residents: jurisdiction.

28.(1) If—

- (a) a Gibraltarian or a Gibraltar resident does anything outside Gibraltar as an act of terrorism or for the purposes of terrorism; and
- (b) his action, if done in Gibraltar, would have constituted an offence listed in subsection (2),

that person shall be guilty of an offence in Gibraltar.

(2) The offences referred to in subsection (1) are—

- (a) murder, manslaughter, culpable homicide, rape, assault causing injury, kidnapping, abduction or false imprisonment within the meaning of the Criminal Offences Act;
- (b) an offence under section 11, 65, 66, 75, 76, 77, 78, 79, 83, 84 or 85 of the Criminal Offences Act;
- (c) an offence under Part XVII of the Criminal Offences Act;
- (d) an offence under section 159 or 160 of the Criminal Offences Act;
- (e) malicious mischief; and
- (f) wilful fire-raising.

Extradition.

29.(1) This section applies to extradition under any provision of law on extradition in force in Gibraltar.

(2) The offences to which a provision of law referred to in subsection (1) applies include the offences mentioned in sections 25 to 28.

(3) If any conduct would constitute an offence if committed in Gibraltar then, notwithstanding that it does not constitute such an offence a person whose surrender is sought in respect of that conduct may be surrendered by Gibraltar in pursuance of a provision of law on extradition in force in Gibraltar to which subsection (2) applies.

Liability of, and penalties for, a body corporate.

30.(1) A body corporate may be made liable—

- (a) for an offence under this Act committed by a person acting either individually or as part of an organ of the body corporate, who has a leading position within the body corporate, and based on a power of representation of, or an authority to take decisions on behalf of the body corporate, or an authority to exercise control within the body corporate; or
- (b) for its involvement as an accessory or instigator in the commission of the offence or in the attempt of commission of the offence,

if the offence is committed for its benefit .

(2) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of a body corporate; or
- (b) a person who was purporting to act in any such capacity,

that person as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) If the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if that member were a director of the body corporate.

(4) A body corporate who is held liable for an offence under this section may, in addition, be declared by the court that it is—

- (a) not entitled to any public benefit or aid; or

- (b) disqualified for such time as may be prescribed by the court or, permanently from the practice of commercial activities in Gibraltar.

Consent to prosecution.

31. Proceedings for an offence under this Act shall not be instituted without the consent of the Attorney General.