

# CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on Sections*

#### **Part 5: Criminal Law**

#### ***Section 75 and Schedule 17: Offences relating to the physical protection of nuclear material and nuclear facilities***

504. The provisions of section 75 and Schedule 17 are needed in order to facilitate UK ratification of amendments made in 2005 to the CPPNM. The original CPPNM was concluded under the auspices of the International Atomic Energy Agency in 1980. It entered into force in 1987, and there are currently 130 Parties. The UK is a Party, having signed the Convention in 1980 and ratified it in 1991.
505. Article 7(1) of the existing CPPNM lists a number of descriptions of conduct relating to nuclear material and requires State Parties to make each type of conduct “*a punishable offence...under its national law*”. Article 7(2) requires the offences to be “*punishable by appropriate penalties which take into account their grave nature*”. The conduct listed in existing Article 7(1) includes (for example):
- “an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property*
- and
- “a theft or robbery of nuclear material*
506. Article 8 of the CPPNM requires each State Party to establish jurisdiction over these offences not only when they are committed in its territory but also when they are committed on board a ship or aircraft registered in that State, by a national of that State or by a person who is presented in its territory and whom the State does not extradite. Therefore, among other things, the CPPNM requires State Parties to create extraterritorial offences.
507. The offences required by the existing CPPNM are implemented in UK law through a mixture of generally applicable criminal offences (for example murder, criminal damage and theft offences) and by the provisions of the 1983 Act. The 1983 Act was passed to implement the CPPNM. It was brought into force in 1991 to coincide with UK ratification. The 1983 Act created offences to fill particular gaps in UK law and also created extraterritorial offences as required by the CPPNM. Thus section 1 of the Act in effect created extraterritorial versions of a number of existing UK offences; and section 2 created new offences constituted either by conduct in the UK or conduct

*These notes refer to the Criminal Justice and Immigration  
Act 2008 (c.4) which received Royal Assent on 8 May 2008*

outside the UK. All the offences are capable of being committed by a person of any nationality.

508. Amendments to the CPPNM were agreed on 8 July 2005. Among other things, new descriptions of conduct were added to Article 7. In order to facilitate UK ratification of the amended Convention, it is necessary to create a number of new criminal offences – including extraterritorial offences. These new offences relate principally to acts directed at a nuclear facility, the misuse of nuclear material with intent to cause damage to the environment (or recklessly as to whether environmental damage is caused), and involvement outside the UK in the unlawful importing, exporting or shipping of nuclear material. It is also necessary to increase the penalty for existing UK offences relating to the import, export and shipment of nuclear material.
509. [Section 75](#) and Schedule 17 amend the 1983 Act to create the necessary new offences and to make related amendments to that Act. They also make related amendments to the penalties for various offences under the Customs and Excise Management Act 1979.