
STATUTORY INSTRUMENTS

1988 No. 2242

OVERSEAS TERRITORIES

The Criminal Justice Act 1988 (Torture)
(Overseas Territories) Order 1988

Made - - - - - *21st December 1988*

Coming into force - - - - - *7th January 1989*

At the Court at Buckingham Palace, the 21st day of December 1988

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 138(1) of the Criminal Justice Act 1988(1), 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 Criminal Justice Act 1988 (Torture) (Overseas Territories) Order 1988 and shall come into force on 7th January 1989.

2.—(1) Sections 134 and 135 of the Criminal Justice Act 1988, modified as in Schedule 1 hereto, shall extend to the Territories specified in Schedule 2 hereto.

(2) For the purpose of construing those sections as part of the law of any Territory to which they so extend “the Territory” means that Territory, including its territorial waters.

G. I. de Deney
Clerk of the Privy Council

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Article 2

SECTIONS 134 AND 135 OF THE CRIMINAL JUSTICE ACT 1988 AS MODIFIED

134.—(1) A public official or person acting in an official capacity, whatever his nationality, commits the offence of torture if in the Territory or elsewhere he intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties.

(2) A person not falling within subsection (1) above commits the offence of torture, whatever his nationality, if—

(a) in the Territory or elsewhere he intentionally inflicts severe pain or suffering on another at the instigation or with the consent or acquiescence—

(i) of a public official; or

(ii) of a person acting in an official capacity; and

(b) the official or other person is performing or purporting to perform his official duties when he instigates the commission of the offence or consents to or acquiesces in it.

(3) It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or an omission.

(4) It shall be a defence for a person charged with an offence under this section in respect of any conduct of his to prove that he had lawful authority, justification or excuse for that conduct.

(5) For the purposes of this section “lawful authority, justification or excuse” means—

(a) in relation to pain or suffering inflicted in the Territory, lawful authority, justification or excuse under the law of the Territory;

(b) in relation to pain or suffering inflicted outside the Territory—

(i) if it was inflicted by an official of the Territory acting under the law of the Territory or by a person acting in an official capacity under that law, lawful authority, justification or excuse under that law;

(ii) in any other case, lawful authority, justification or excuse under the law of the place where it was inflicted.

(6) A person who commits the offence of torture shall be liable on conviction on indictment to imprisonment for life.

135.—(1) Proceedings for an offence under section 134 above shall not be begun in the Territory except by, or with the consent of, the Attorney-General of the Territory.

(2) In this section the expression “Attorney-General” includes the Solicitor-General, and if neither of such officers exists, the expression means that officer whose functions include the general control of public prosecutions.

SCHEDULE 2

Article 2

TERRITORIES TO WHICH SECTIONS 134 AND 135 OF THE CRIMINAL JUSTICE ACT 1988, AS MODIFIED IN SCHEDULE 1, EXTEND

Anguilla

Cayman Islands

Falkland Islands

Gibraltar
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena
St Helena Dependencies
Turks and Caicos Islands
Virgin Islands

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends sections 134 and 135 of the Criminal Justice Act 1988, subject to modifications, to the territories specified in Schedule 2 hereto.

The purpose of those sections is to give effect to provisions of the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly of the United Nations on 10th December 1984.