

2001 No. 3936

PRISONS

REPATRIATION

**The Repatriation of Prisoners Act 1984 (Isle of Man) Order
2001**

Made - - - - - 11th December 2001

Coming into force - - - - - 2nd January 2002

At the Court at Buckingham Palace, the 11th day of December 2001

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 9(4) of the Repatriation of Prisoners Act 1984(a), as extended by paragraph 11 of Schedule 2 to the Crime (Sentences) Act 1997(b), 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 Repatriation of Prisoners Act 1984 (Isle of Man) Order 2001 and shall come into force on 2nd January 2002.
2. The Repatriation of Prisoners Act 1984 shall extend to the Isle of Man with the exceptions, adaptations and modifications specified in the Schedule to this Order.
3. The Repatriation of Prisoners Act 1984 (Isle of Man) Order 1986(c) is hereby revoked.

A. K. Galloway
Clerk of the Privy Council

(a) 1984 c. 47.

(b) 1997 c. 43. The powers under section 9(4) of the Repatriation of Prisoners Act 1984 have been further extended by section 119(12) of the Crime and Disorder Act 1998 (c. 37), but those powers are not exercised in this Order.

(c) S.I. 1986/598.

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS TO PROVISIONS OF THE
REPATRIATION OF PRISONERS ACT 1984 AS EXTENDED TO THE ISLE OF MAN

1. In section 1(a), after subsection (1) insert—
“(1A) The Secretary of State may not give his agreement for the transfer of any person into or out of the Isle of Man except with the consent of the Department of Home Affairs.”.
2. In section 2(b)—
 - (a) for subsection (4)(b) substitute—
“(b) to provide for the prisoner to be treated as having been released on licence under paragraph 2(1)(b) or (2), 4(4) or 6(1) or (2) of Schedule 2 to the Custody Act 1995 (an Act of Tynwald).”;
and
 - (b) for subsection (6) substitute—
“(6) In subsection (5) above—
“hospital order” means an order made under section 54(1)(b) of the Criminal Jurisdiction Act 1993 (an Act of Tynwald) or an equivalent order under paragraph 2(1) of Schedule 2A to the Summary Jurisdiction Act 1989 (an Act of Tynwald), or any order or direction made under another enactment but having the same effect as such an order;
“restriction order” means an order made under section 54(10) of the said Act of 1993 or any order or direction made under another enactment but having the same effect as such an order.”.
3. In section 3(c), after subsection (8) insert—
“(9) The provisions contained by virtue of subsection (1)(c) above in a warrant under this Act shall, in the case of a prisoner to whom paragraph 5 (transferred life detainees) of Schedule 2 to the Custody Act 1995 (an Act of Tynwald) applies, include provision specifying the relevant part of his sentence within the meaning of paragraph 4 (discretionary life detainees) of that Schedule.”.
4. In section 5(6)(d), in the definition of “British ship”, for “1894” substitute “1995”.
5. In section 7, omit subsections (1) and (5).
6. In section 8, after subsection (1) insert—
“(1A) Except in section 1(1)(a) (in the first place), section 8(1) and the Schedule, any reference in this Act to the United Kingdom shall be construed as including a reference to the Isle of Man.
(1B) Any reference in this Act to this Act or a provision of this Act shall be construed as a reference to this Act or that provision as it has effect in the Isle of Man.
(1C) Any reference in this Act to an Act of Tynwald shall be construed as including a reference to that Act as amended or replaced by or under any other Act of Tynwald.”.
7. In section 9, omit subsections (2), (3) and (4).
- 8.—(1) The Schedule is modified as follows.
 - (2) In paragraph 1, for “United Kingdom” substitute “Isle of Man”.
 - (3) For paragraph 2(e) substitute—
“2.—(1) In determining for the purposes of any of the provisions of Schedule 2 to the Custody Act 1995 (an Act of Tynwald) whether the prisoner has at any time served a particular proportion or part of his sentence specified in that provision the prisoner’s sentence shall, subject to sub-paragraph (2) below, be deemed to begin with the day on which the relevant provisions take effect.

(2) If the warrant specifies a period to be taken into account for the purposes of paragraph 4(4) and (6) of the said Schedule 2—
(a) the amount of time the prisoner has served, and
(b) where his sentence is a determinate one, his sentence,

shall, so far only as the question whether he has served any particular proportion or part of his sentence is concerned, be deemed to be increased by that period.

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- (a) References in the Repatriation of Prisoners Act 1984 (as enacted) to “relevant Minister” were amended by S.I. 1999/1820. Those amendments do not extend to the Isle of Man.
 - (b) Section 2(4)(b) and (6) have been amended. The amendments do not extend to the Isle of Man.
 - (c) Section 3 was amended by the Criminal Justice Act 1991 Schedule 11, paragraph 35(2) (c. 53) and the Prisoners and Criminal Proceedings (Scotland) Act 1993 Schedule 5, paragraph 3(3) (c. 9). Those amendments do not extend to the Isle of Man.
 - (d) Section 5(6) was amended by the Merchant Shipping Act 1995 Schedule 13, paragraph 73 (c. 21). That amendment does not extend to the Isle of Man.
 - (e) There have been several amendments to paragraph 2, but those amendments do not extend to the Isle of Man.

- (3) The following questions, namely—
- (a) whether the prisoner is a long-term detainee for the purposes of the said Schedule 2, and
 - (b) whether or not he is an existing detainee for the purposes of Part 2 of Schedule 3 to the said Act of 1995,
- shall be determined by reference to the length or, as the case may require, commencement of the sentence imposed in the country or territory from which he is transferred.
- (4) In this paragraph “sentence”, except in sub-paragraph (3), means the provision included in the warrant which is equivalent to a sentence.”.
- (4) After paragraph 2 insert—
- “**2A.** In relation to prisoners repatriated to the Isle of Man before 2nd January 2002, paragraph 2 shall have effect with the substitution for sub-paragraphs (2) and (3) of the following—
- “(2) If the warrant specifies a period to be taken into account for the purposes of this paragraph, the prisoner’s sentence and the time he has served shall, so far only as the question whether he has served that part of his sentence is concerned, be deemed to be increased by that period.
- (3) The following questions, namely—
- (a) whether the prisoner is a short-term or long-term detainee for the purposes of the said Schedule 2, and
 - (b) whether or not he is an existing detainee for the purposes of Part 2 of Schedule 3 to the said Act of 1995,
- shall be determined by reference to the length or, as the case may require, commencement of the sentence imposed in the country or territory from which he is transferred.””.
- (5) For paragraph 3(a) substitute—
- “**3.** Where the relevant provisions include provision equivalent to a sentence in relation to which paragraph 6(2) of the said Schedule 2 (power to release life detainee who is not a mandatory or discretionary life detainee) applies, the said paragraph 6(2) shall have effect as if the reference to consulting the trial judge were omitted.”.
- (6) For paragraph 5(b) substitute—
- “**5.**—(1) References in—
- (a) the Mental Health Act 1998 (an Act of Tynwald), or
 - (b) any provision of the Criminal Jurisdiction Act 1993 (an Act of Tynwald) or the Summary Jurisdiction Act 1989 (an Act of Tynwald) relating to persons suffering from mental disorder,
- to the date of an order under any of those Acts shall have effect, in relation to any of the relevant provisions which is equivalent to such an order, as references to the day on which the relevant provisions take effect.
- (2) Where the relevant provisions include provisions equivalent to a hospital order or such an order and a restriction order, the prisoner may (in addition to any application he may make under any of those Acts) apply to the Mental Health Review Tribunal at any time in the period of six months beginning with the day on which the relevant provisions take effect.
- (3) In this paragraph—
- “hospital order” and “restriction order” have the meanings given by section 2(6) of this Act;
- “the Mental Health Review Tribunal” means the tribunal constituted by section 73 of the Mental Health Act 1998 (an Act of Tynwald).”.
- (7) In paragraph 6, for sub-paragraphs (a) and (b) substitute “the Rehabilitation of Offenders Act 2001 (an Act of Tynwald), except section 1(2)(c) (person not rehabilitated unless he serves sentence etc.)”.
- (8) In paragraph 7—
- (a) for the words from “section 1” to “Commons”, substitute “any enactment relating to disqualification for membership of the Legislative Council or the House of Keys”;
 - (b) for “United Kingdom” substitute “Isle of Man”.
- (9) Omit paragraph 8.

(a) Paragraph 3 was amended by the Crime and Disorder Act 1998 Schedule 8, paragraph 60. That amendment has not been extended to the Isle of Man.

(b) Paragraph 5 was amended by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 Schedule 4, paragraph 52(b) (c. 40) and by S.I. 1986/596 which do not extend to the Isle of Man.

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order extends the Repatriation of Prisoners Act 1984 (the 1984 Act) to the Isle of Man. The Schedule to the Order includes exceptions, adaptations and modifications which reflect amendments to the 1984 Act consequential on the Crime (Sentences) Act 1997 (Act of Parliament) and certain Acts of Tynwald passed since 1986.

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