



TURKS AND CAICOS ISLANDS

CHAPTER 10.07
NUCLEAR SAFEGUARDS ORDINANCE

Revised Edition
showing the law as at 31 August 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

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Ordinance 5 of 1996 .. not in force as at revision date

No Subsidiary Legislation has been made under this Ordinance

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Published in 2011
On the authority and on behalf of the Government of the Turks and Caicos Islands
By
The Regional Law Revision Centre Inc.

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Grand Turk
Turks and Caicos Islands
British West Indies

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Printed on the authority and on behalf of the Government of the Turks and Caicos Islands
by
The Regional Law Revision Centre Inc.
P.O. Box 1626, Hannah-Waver House, The Valley, AI-2640, Anguilla
Authorised Printers for this Revised Edition

CHAPTER 10.07

NUCLEAR SAFEGUARDS ORDINANCE

ARRANGEMENT OF SECTIONS

SECTION

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SCHEDULE: Privileges and Immunities of the Agency, its Officers and other Persons

CHAPTER 10.07

NUCLEAR SAFEGUARDS ORDINANCE

(Ordinance 5 of 1996)

AN ORDINANCE TO GIVE EFFECT IN THE TURKS AND CAICOS ISLANDS TO AN INTERNATIONAL AGREEMENT RELATING TO THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA.

Commencement

[*]

Short title and Commencement

1. This Ordinance may be cited as the Nuclear Safeguards Ordinance and shall come into operation on such date as the Governor may appoint by notice published in the *Gazette*.

Interpretation

2. In this Ordinance—

“the Agency” means the International Atomic Energy Agency as defined in the Statute of the International Atomic Energy Agency;

“Agency inspector” means an official of the Agency designated an Agency inspector pursuant to Article 83 of the Agreement;

“the Agreement” means the Agreement between the United Kingdom of Great Britain and Northern Ireland, the European Atomic Energy Community and the Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America done at Vienna on 13 October 1992, Brussels on 11 November 1992 and London on 6 January 1993;

“facility” has the meaning ascribed to it by Article 96(2) I of the Agreement;

“material balance area” has the meaning ascribed to it by Article 96(2) M of the Agreement.

Powers of Agency

3. (1) Subject to subsection (2), an Agency inspector may enter a facility or material balance area on the Islands and make an inspection or do anything else reasonably necessary to—

(a) make an inspection permitted by Articles 68 to 82 of the Agreement; or

* This Ordinance had not been brought into operation as at the revision date.

(b) verify design information pursuant to Article 46 of the Agreement.

(2) An Agency inspector has no power to exercise the right given by subsection (1) except in the cases specified in, and subject to the provisions of the Agreement and, in particular, an Agency inspector has no power to exercise the right—

(a) except in accordance with Articles 5, 9(c) and 85 of, and Protocol I to, the Agreement; and

(b) where Article 81 of the Agreement applies, unless the advance notice required by that Article has been given.

Immunities and privileges of Agency and its officers

4. The Agency, its officers and other persons employed or retained by it, and the families of such officers or persons, shall have the immunities and privileges set out in the Schedule.

Offences and penalties

5. A person who—

(a) obstructs an Agency inspector exercising a power conferred by this Ordinance;

(b) without reasonable excuse refuses or fails—

(i) to provide information; or

(ii) to permit an inspection,

reasonably required by an Agency inspector exercising such power; or

(c) in providing the information so required knowingly or recklessly makes a statement which is false in a material particular;

commits an offence and is liable on summary conviction to a fine of \$10,000.

Regulations for giving effect to certain provisions of the Agreement

6. (1) The Governor may make regulations—

(a) to take any action in the Islands required under Article 17 of the Agreement;

(b) to give effect to any arrangement made under Article 74(d) of the Agreement.

(2) Regulations made under subsection (1) may provide that any person contravening any provision of the regulations shall be liable on conviction to a fine not exceeding \$5,000.

Offences by corporations

7. Where an offence under this Ordinance which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Ordinance to bind the Crown

8. This Ordinance binds the Crown.

SCHEDULE

(Section 4)

PRIVILEGES AND IMMUNITIES OF THE AGENCY, ITS OFFICERS AND OTHER PERSONS

PART 1

IMMUNITIES AND PRIVILEGES OF THE AGENCY

1. The Agency is an organisation of which the United Kingdom and foreign Sovereign Powers are members.

2. The Agency has the legal capacities of a body corporate.

3. Immunity from suit and legal process. The immunity of the Agency is to be taken to extend to any measure of execution unless in any particular case it expressly waives its immunity.

4. The Agency has the same inviolability in respect of its official archives and premises as is accorded in respect of the official archives and premises of an envoy of a foreign Sovereign Power accredited to Her Majesty.

5. The Agency has the same exemption or relief from taxes, other than customs duties and taxes on the importation of goods, as is accorded to a foreign Sovereign Power.

6. The Agency has the same relief from rates in respect of its premises as is accorded in respect of the premises of such an envoy.

7. The Agency is exempted from customs duties and taxes on the importation of—
(a) goods imported by the Agency for its official use in the Islands; and
(b) publications of the Agency imported by it,

if it complies with arrangements made by the Minister responsible for finance to protect the revenues of the Islands.

8. The Agency is exempted from prohibitions and restrictions on the importation or exportation of—

- (a) goods imported or exported by the Agency for its official use; and
- (b) publications of the Agency imported or exported by it.

9. The Agency is relieved (by way of refund) of customs duty on goods brought by it in to the Islands and used for its official purposes if it complies with arrangements made for the purpose by the Minister responsible for finance.

PART 2

IMMUNITIES AND PRIVILEGES OF OFFICERS OF THE AGENCY

10. (1) Subject to subparagraphs (2) and (3), the Director General of the Agency, an officer acting on his behalf during his absence from duty, and any Deputy Director General or officer of equivalent rank have—

- (a) the same—
 - (i) immunity from suits and legal processes; and
 - (ii) inviolability of residence; and
 - (iii) exemption or relief from rates and taxes, other than customs duties and taxes on the importation of goods,

as are accorded to or in respect of an envoy of a foreign Sovereign Power accredited to Her Majesty;

- (b) the same exemptions from customs duties and taxes on the importation of articles, including articles intended for his establishment, imported for his personal use or the use of a member of his family forming part of his household, as are accorded to such an envoy;
- (c) the same exemptions and privileges in respect of his baggage as is accorded to such an envoy;
- (d) relief (by way of refund) from customs duty on hydrocarbon oil brought by him in the Islands if he complies with arrangements made for the purpose by the Minister responsible for finance.

(2) Subparagraph (1) does not apply to a person who is a British citizen, a British Dependent Territories citizen, a British National (Overseas), a British Overseas citizen or permanent resident of the Islands.

(3) A privilege or immunity given by subparagraph (1) may be waived by the Agency in any particular case.

11. (1) Subject to subparagraphs (2) and (3), an officer of the Agency has—

- (a) the same immunity from suits and legal processes in respect of things done or omitted to be done by him in his official capacity ; and
- (b) the same exemptions from customs duties and taxes on the importation of articles, including articles intended for his establishment, which—

- (i) are imported for his personal use or the use of a member of his family forming part of his household at or about the time when he first enters the Islands to take up his post as an officer of the Agency; and
- (ii) were in his ownership or possession or that of such a member of his family or which he or such a member of his family was under contract to purchase, immediately before they so entered the Islands,

as are accorded to such an envoy.

(2) Subparagraph (1) does not apply to an officer of the Agency who is locally recruited and assigned to hourly rates of pay.

(3) A privilege or immunity given by subparagraph (1) may be waived by the Agency in any particular case.

PART 3

IMMUNITIES AND PRIVILEGES OF EXPERTS OF THE AGENCY

12. An expert (other than an officer of the Agency) serving on a committee of the Agency or performing a mission for the Agency, including a mission as an inspector under Article XII of the Statute of the Agency or as a project examiner under Article XI of that Statute, has—

- (a) immunity from suits and legal processes in respect of things done or omitted to be done by him in the performance of his official functions; and
- (b) while exercising his functions and during journeys in connection with service on such a committee or mission, the same immunity from personal arrest or detention and from seizure of his personal baggage and the same inviolability for all papers and documents as is accorded to an envoy of a foreign Sovereign Power accredited to Her Majesty; and
- (c) while exercising his functions and during journeys in connection with service on such a committee or mission, the same exemptions and privileges in respect of his personal baggage as is accorded to such an envoy.

PART 4

IMMUNITIES AND PRIVILEGES OF FAMILIES OF OFFICERS

13. A spouse or minor child of an officer of the Agency who is part of the household of the officer in the Islands has the same immunities and privileges set out in Part 2 of the Schedule as the officer.