

《聯合國人員和有關人員安全條例草案》－
政府當局就立法會助理法律顧問
2006年5月23日信件的回應

(a) 第4(1)條

條例草案第4(1)和5(2)條旨在實施《聯合國人員和有關人員安全公約》(公約)第10(1)(b)條，該條規定各締約國應在嫌疑犯是本國國民的情況下，確定其對公約禁止的罪行的管轄權。該兩條的用意是禁止“指明人士”在香港以外地方觸犯該兩條訂明的作為。

公約沒有特別要求包括串謀罪。如某“指明人士”在香港以外地方同謀參與任何公約禁止的攻擊、或企圖進行這類攻擊、或策劃或指揮他人進行這類攻擊，條例草案第4及／或6條已可處理。

《刑事罪行條例》(第200章)第159A條訂明－

“如任何人與任何其他人達成作出某項行為的協議，而該項協議如按照他們的意圖得以落實，即出現以下的情況－

- (a) 該項行為必會構成或涉及協議的一方或多於一方犯一項或多於一項罪行；或
- (b) 若非存在某些致令不可能犯該罪行或任何該等罪行的事實，該項行為即會構成或涉及犯該罪行或該等罪行，

則該人即屬串謀犯該罪行或該等罪行”；“罪行”指“任何可在香港審訊的罪行”。

如某“指明人士”與另一“指明人士”在香港以外地方串謀觸犯條例草案第4或5條所禁止的作為，視乎有關證據，他們可被控以第200章第159A條及／或條例草案第4或5條下的罪行。

(b) 第 5 條

第 200 章第 24 條規定 –

“任何人威脅其他人 –

- (a) 會使該其他他人的人身、名譽或財產遭受損害；或
- (b) 會使第三者的人身、名譽或財產遭受損害，或使任何死者的名譽或遺產遭受損害；或
- (c) 會作出任何違法作為，

而在任何上述情況下意圖 –

- (i) 使受威脅者或其他人受驚；或
- (ii) 導致受威脅者或其他人作出他在法律上並非必須作出的作為；或
- (iii) 導致受威脅者或其他人不作出他在法律上有權作出的作為，即屬犯罪。”

條例草案第 5 條旨在實施公約第 9(1)(c)、9(2)和 10(1)條，把罪行限於為強迫他人從事或不從事某種行為而威脅進行公約禁止的攻擊。第 5 條的草擬緊貼公約的規定。“另一人”和“該另一人”指任何人，包括聯合國人員和有關人員。

第 200 章第 24 條下的恐嚇罪的涵蓋範圍較廣，包括禁止威脅其他人而會使該其他他人的名譽、任何死者的名譽或遺產遭受損害、或會作出任何違法作為。

第 200 章第 24 條的涵蓋範圍應足以懲處公約第 9(1)(c)條禁止的行為。不過，經考慮國際間認同有需要阻嚇此罪行，和其他司法管轄區所訂定的罰則，我們認為有需要訂定較高的最高刑罰，以履

行公約第 9(2)條的要求，反映罪行的嚴重性。

(c) 條例草案

附件載列了澳洲、加拿大、新西蘭和英國用以實施公約第 9 和 10(1) 條的有關法例。

保安局
2006 年 5 月

Provisions of the Laws of Australia, Canada, New Zealand and the United Kingdom implementing the requirements of Articles 9 and 10(1) of the Convention on Safety of United Nations and Associated Personnel

**澳洲、加拿大、新西蘭和英國實施
《聯合國人員和有關人員安全公約》第 9 及 10(1)條的規定的有關法律條文**

	Australia 澳洲	Canada 加拿大	New Zealand 新西蘭	United Kingdom 英國
Law 法律	Criminal Code Act 1995	Criminal Code	Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980	United Nations Personnel Act 1997
Provisions 條文	<p>Division 71—Offences against United Nations and associated personnel</p> <p>71.1 Purpose</p> <p>The purpose of this Division is to protect United Nations and associated personnel and give effect to the Convention on the Safety of United</p>	<p>2. Definitions</p> <p>In this Act, “associated personnel” means persons who are</p> <p>(a) assigned by a government or an intergovernmental organization with the agreement of the competent organ of the United Nations,</p>	<p>2. Interpretation—</p> <p>(1) In this Act, unless the context otherwise requires,—</p> <p>“Associated person”, in relation to an alleged act or omission that constitutes a crime by virtue of or against any of sections 3 to 6, means—</p> <p>(a) A person assigned by a Government or an</p>	<p>1. Attacks on UN workers—</p> <p>(1) If a person does outside the United Kingdom any act to or in relation to a UN worker which, if he had done it in any part of the United Kingdom, would have made him guilty of any of the offences mentioned in subsection (2), he shall in that part of the United Kingdom be guilty of that offence.</p>

	<p>Nations and Associated Personnel.</p> <p>71.2 Murder of a UN or associated person</p> <p>(1) A person is guilty of an offence if:</p> <p>(a) the person's conduct causes the death of another person; and</p> <p>(b) that other person is a UN or associated person; and</p> <p>(c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and</p> <p>(d) the</p>	<p>(b) engaged by the Secretary-General of the United Nations, by a specialized agency of the United Nations or by the International Atomic Energy Agency, or</p> <p>(c) deployed by a humanitarian non-governmental organization or agency under an agreement with the Secretary-General of the United Nations, by a specialized agency of the United Nations or by the International Atomic Energy Agency,</p> <p>to carry out activities in support of the fulfilment of the mandate of a United Nations operation;</p>	<p>intergovernmental organisation with the agreement of the competent organ of the United Nations; or</p> <p>(b) A person engaged by—</p> <p>(i) The Secretary-General of the United Nations; or</p> <p>(ii) A specialised agency of the United Nations; or</p> <p>(iii) The International Atomic Energy Agency; or</p> <p>(c) A person deployed by a humanitarian non-governmental organisation or agency under an agreement</p>	<p>(2) The offences referred to in subsection (1) are-</p> <p>(a) murder, manslaughter, culpable homicide, rape, assault causing injury, kidnapping, abduction and false imprisonment;</p> <p>(b) an offence under section 18, 20, 21, 22, 23, 24, 28, 29, 30 or 47 of the Offences against the Person Act 1861; and</p> <p>(c) an offence under section 2 of the Explosive Substances Act 1883.</p> <p>2. Attacks in connection with premises and vehicles—</p> <p>(1) If a person does outside the United Kingdom any act, in connection with an attack on relevant premises or on a vehicle ordinarily</p>
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	<p>first-mentioned person intends to cause, or is reckless as to causing, the death of the UN or associated person or any other person by the conduct.</p> <p>Maximum penalty: Imprisonment for life.</p> <p>(2) Strict liability applies to paragraphs (1)(b) and (c).</p> <p>71.3 Manslaughter of a UN or associated person</p> <p>(1) A person is guilty of an offence if:</p> <p>(a) the person's conduct causes the death of</p>	<p>“United Nations operation” means an operation that is established by the competent organ of the United Nations in accordance with the Charter of the United Nations and is conducted under United Nations authority and control, if the operation is for the purpose of maintaining or restoring international peace and security or if the Security Council or the General Assembly of the United Nations has declared, for the purposes of the <i>Convention on the Safety of United Nations and Associated Personnel</i>, that there exists an exceptional risk to the safety of the personnel participating in the operation. It does not include an operation authorized by the Security Council as an enforcement action under</p>	<p>with—</p> <p>(i) The Secretary-General of the United Nations; or</p> <p>(ii) A specialised agency of the United Nations; or</p> <p>(iii) The International Atomic Energy Agency—</p> <p>to carry out activities in support of the fulfilment of the mandate of a United Nations operation:</p> <p>“New Zealand” includes all waters within the outer limits of the territorial sea of New Zealand (as defined by section 3 of the Territorial Sea, Contiguous</p>	<p>used by a UN worker which is made when a UN worker is on or in the premises or vehicle, which, if he had done it in any part of the United Kingdom, would have made him guilty of any of the offences mentioned in subsection (2), he shall in that part of the United Kingdom be guilty of that offence.</p> <p>(2) The offences referred to in subsection (1) are-</p> <p>(a) an offence under section 2 of the Explosive Substances Act 1883;</p> <p>(a) an offence under section 2 of the Explosive Substances Act 1883;</p> <p>(b) an offence under section 1 of the</p>
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	<p>another person; and</p> <p>(b) that other person is a UN or associated person; and</p> <p>(c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and</p> <p>(d) the first-mentioned person intends to cause, or is reckless as to causing, serious harm to the UN or associated person or any other person by the conduct.</p>	<p>Chapter VII of the Charter of the United Nations in which any of the personnel are engaged as combatants against organized armed forces and to which the law of international armed conflict applies;</p> <p>“United Nations personnel” means</p> <p>(a) persons who are engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a United Nations operation, or</p> <p>(b) any other officials or experts who are on mission of the United Nations or one of its specialized agencies or</p>	<p>Zone, and Exclusive Economic Zone Act 1977);</p> <p>“Person protected by a convention” means—</p> <p>(a) An associated person; or</p> <p>(b) An internationally protected person; or</p> <p>(c) A United Nations person:</p> <p>“The 1994 Convention” means the Convention on the Safety of United Nations and Associated Personnel, opened for signature at New York on 9 December 1994:</p> <p>“United Nations operation” means an operation established by the competent organ of the</p>	<p>Criminal Damage Act 1971;</p> <p>(c) an offence under article 3 of the Criminal Damage (Northern Ireland) Order 1977; and</p> <p>(d) wilful fire-raising.</p> <p>(3) In this section- "relevant premises" means premises at which a UN worker resides or is staying or which a UN worker uses for the purpose of carrying out his functions as such a worker; and "vehicle" includes any means of conveyance.</p> <p>3. Threats of attacks on UN workers –</p> <p>(1) If a person in the United Kingdom or</p>
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	<p>Maximum penalty: Imprisonment for 25 years.</p> <p>(2) Strict liability applies to paragraphs (1)(b) and (c).</p> <p>71.4 Intentionally causing serious harm to a UN or associated person</p> <p>(1) A person is guilty of an offence if:</p> <p>(a) the person's conduct causes serious harm to another person; and</p> <p>(b) that other person is a UN or associated person; and</p> <p>(c) the UN or associated person</p>	<p>the International Atomic Energy Agency and who are present in an official capacity in the area where a United Nations operation is conducted;</p> <p>7. (3.71) Offence against United Nations or associated personnel</p> <p>Notwithstanding anything in this Act or any other Act, every one who, outside Canada, commits an act or omission against a member of United Nations personnel or associated personnel or against property referred to in section 431.1 that, if committed in Canada, would constitute an offence against, a conspiracy or an attempt to commit an offence against, or being an accessory after the</p>	<p>United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and control—</p> <p>(a) If the operation is for the purpose of maintaining or restoring international peace and security; or</p> <p>(b) If the Security Council of the United Nations, or the General Assembly of the United Nations, has declared, for the purposes of the 1994 Convention, that there exists an exceptional risk to the safety of the personnel participating in the operation:</p> <p>United Nations</p>	<p>elsewhere contravenes subsection (2) he shall be guilty of an offence.</p> <p>(2) A person contravenes this subsection if, in order to compel a person to do or abstain from doing any act, he-</p> <p>(a) makes to a person a threat that any person will do an act which is-</p> <p>(i) an offence mentioned in section 1(2) against a UN worker, or</p> <p>(ii) an offence mentioned in subsection (2) of section 2 in connection with such an attack as is mentioned in subsection (1) of that section, and</p> <p>(b) intends that the</p>
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	<p>is engaged in a UN operation that is not a UN enforcement action; and</p> <p>(d) the first-mentioned person intends to cause serious harm to the UN or associated person or any other person by the conduct.</p> <p>Maximum penalty: Imprisonment for 20 years.</p> <p>Maximum penalty (aggravated offence): Imprisonment for 25 years.</p> <p>(2) Strict liability applies to paragraphs (1)(b)</p>	<p>fact or counselling in relation to an offence against, section 235, 236, 266, 267, 268, 269, 269.1, 271, 272, 273, 279, 279.1, 424.1 or 431.1 is deemed to commit that act or omission in Canada if</p> <p>(a) the act or omission is committed on a ship that is registered or licensed, or for which an identification number has been issued, under an Act of Parliament;</p> <p>(b) the act or omission is committed on an aircraft</p> <p>(i) registered in Canada under regulations made under the <i>Aeronautics Act</i>, or</p> <p>(ii) leased without crew and operated by a person who is qualified under regulations made under</p>	<p>person", in relation to an alleged act or omission that constitutes a crime by virtue of or against any of sections 3 to 6, means—</p> <p>(a) A person engaged or deployed by the Secretary-General of the United Nations as a member of the military, police, or civilian components of a United Nations operation; or</p> <p>(b) An official or expert on mission of—</p> <p>(i) The United Nations; or</p> <p>(ii) A specialised agency of the United Nations; or</p> <p>(iii) The International</p>	<p>person to whom he makes the threat shall fear that it will be carried out.</p> <p>(3) A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term—</p> <p>(a) not exceeding ten years, and</p> <p>(b) not exceeding the term of imprisonment to which a person would be liable for the offence constituted by doing the act threatened at the place where the conviction occurs and at the time of the offence to which the conviction relates.</p> <p>4. Meaning of UN worker –</p> <p>(1) For the purposes of this</p>
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	<p>and (c).</p> <p>71.5 Recklessly causing serious harm to a UN or associated person</p> <p>(1) A person is guilty of an offence if:</p> <p>(a) the person's conduct causes serious harm to another person; and</p> <p>(b) that other person is a UN or associated person; and</p> <p>(c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and</p> <p>(d) the</p>	<p>the <i>Aeronautics Act</i> to be registered as owner of an aircraft in Canada under those regulations;</p> <p>(c) the person who commits the act or omission</p> <p>(i) is a Canadian citizen, or</p> <p>(ii) is not a citizen of any state and ordinarily resides in Canada;</p> <p>(d) the person who commits the act or omission is, after the commission of the act or omission, present in Canada;</p> <p>(e) the act or omission is committed against a Canadian citizen; or</p> <p>(f) the act or omission is committed with intent to compel the Government of</p>	<p>Atomic Energy Agency—</p> <p>who is present in an official capacity in the area where a United Nations operation is being conducted:</p> <p>“Vehicle” includes any means of conveyance.</p> <p>3. Crimes against persons—</p> <p>(1) Without limiting anything in the Crimes Act 1961, every one commits a crime who does an act or omits to do an act, if—</p> <p>(a) He or she does the act, or omits to do the act, in New Zealand or outside New Zealand; and</p> <p>(b) He or she does the act, or omits to do the act,</p>	<p>Act a person is a UN worker, in relation to an alleged offence, if at the time of the alleged offence—</p> <p>(a) he is engaged or deployed by the Secretary-General of the United Nations as a member of the military, police or civilian component of a UN operation,</p> <p>(b) he is, in his capacity as an official or expert on mission of the United Nations, a specialised agency of the United Nations or the International Atomic Energy Agency, present in an area where a UN operation is being conducted,</p> <p>(c) he is assigned, with</p>
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	<p>first-mentioned person is reckless as to causing serious harm to the UN or associated person or any other person by the conduct.</p> <p>Maximum penalty: Imprisonment for 15 years.</p> <p>Maximum penalty (aggravated offence): Imprisonment for 19 years.</p> <p>(2) Strict liability applies to paragraphs (1)(b) and (c).</p> <p>71.6 Intentionally causing harm to a UN or associated person</p>	<p>Canada or of a province to do or refrain from doing any act.</p> <p>424.1 Threat against United Nations or associated personnel</p> <p>Every one who, with intent to compel any person, group of persons, state or any international or intergovernmental organization to do or refrain from doing any act, threatens to commit an offence under section 235, 236, 266, 267, 268, 269, 269.1, 271, 272, 273, 279 or 279.1 against a member of United Nations personnel or associated personnel or threatens to commit an offence under section 431.1 is guilty of an indictable offence and liable to</p>	<p>to or in relation to a person whom he or she knows to be a person protected by a convention; and</p> <p>(c) The act or omission is one that constitutes, or would, if done or made in New Zealand, constitute,—</p> <p>(i) A crime referred to or described in a provision of the Crimes Act 1961 specified in Schedule 1; or</p> <p>(ii) An attempt to commit such a crime, if the crime is not itself constituted by a mere attempt.</p> <p>(2) Every one who commits a crime against this section is liable on conviction on indictment to the same penalty to which</p>	<p>the agreement of an organ of the United Nations, by the Government of any State or by an international governmental organisation to carry out activities in support of the fulfilment of the mandate of a UN operation,</p> <p>(d) he is engaged by the Secretary-General of the United Nations, a specialised agency or the International Atomic Energy Agency to carry out such activities, or</p> <p>(e) he is deployed by a humanitarian non-governmental organisation or agency</p>
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	<p>(1) A person is guilty of an offence if:</p> <p>(a) the person's conduct causes harm to another person without the consent of that person; and</p> <p>(b) that other person is a UN or associated person; and</p> <p>(c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and</p> <p>(d) the first-mentioned person intends to cause harm to the UN or associated</p>	<p>imprisonment for a term of not more than ten years.</p> <p>431.1 Attack on premises, accommodation or transport of United Nations or associated personnel</p> <p>Every one who commits a violent attack on the official premises, private accommodation or means of transport of a member of United Nations personnel or associated personnel that is likely to endanger the life or liberty of such a person is guilty of an indictable offence and liable to imprisonment for a term of not more than fourteen years.</p>	<p>he or she would have been liable had he or she been charged with a crime against the relevant provision of the Crimes Act 1961.</p> <p>4. Crimes against premises or vehicles—</p> <p>(1) Without limiting anything in the Crimes Act 1961, every one commits a crime who does an act or omits to do an act, if—</p> <p>(a) He or she does the act, or omits to do the act, in New Zealand or outside New Zealand; and</p> <p>(b) He or she does the act, or omits to do the act, to or in relation to—</p> <p>(i) Premises that he or she knows to be the official premises or</p>	<p>under an agreement with the Secretary-General of the United Nations, with a specialised agency or with the International Atomic Energy Agency to carry out such activities.</p> <p>(2) Subject to subsection (3), in this section "UN operation" means an operation-</p> <p>(a) which is established, in accordance with the Charter of the United Nations, by an organ of the United Nations, (b) which is conducted under the authority and control of the United Nations, and (c) which-</p>
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	<p>person or any other person by the conduct.</p> <p>Maximum penalty: Imprisonment for 10 years.</p> <p>Maximum penalty (aggravated offence): Imprisonment for 13 years.</p> <p>(2) Strict liability applies to paragraphs (1)(b) and (c).</p> <p>71.7 Recklessly causing harm to a UN or associated person</p> <p>(1) A person is guilty of an offence if:</p> <p>(a) the person's conduct causes harm to another person without</p>		<p>private residence of a person protected by a convention; or</p> <p>(ii) A vehicle that he or she knows is used by a person protected by a convention; and</p> <p>(c) He or she does the act, or omits to do the act, while such a person is present in those premises or that residence or vehicle; and</p> <p>(d) The act or omission is one that constitutes, or would, if done or made in New Zealand, constitute,—</p> <p>(i) A crime referred to or described in a provision of the Crimes Act 1961 specified in Schedule 2; or</p> <p>(ii) An attempt to commit such a crime, if</p>	<p>(i) has as its purpose the maintenance or restoration of international peace and security, or</p> <p>(ii) has, for the purposes of the Convention, been declared by the Security Council or the General Assembly of the United Nations to be an operation where there exists an exceptional risk to the safety of the participating personnel.</p> <p>(3) In this section "UN operation" does not include any operation-</p> <p>(a) which is authorised by the Security Council of the United</p>
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	<p>the consent of that person; and</p> <p>(b) that other person is a UN or associated person; and</p> <p>(c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and</p> <p>(d) the first-mentioned person is reckless as to causing harm to the UN or associated person or any other person by the conduct.</p> <p>Maximum penalty: Imprisonment for 7</p>		<p>the crime is not itself constituted by a mere attempt.</p> <p>(2) Every one who commits a crime against this section is liable on conviction on indictment to the same penalty to which he would have been liable had he been charged with a crime against the relevant provision of the Crimes Act 1961.</p> <p>5. Threats against persons—</p> <p>(1A) Every one commits a crime who threatens to do an act, if—</p> <p>(a) The act constitutes a crime against section 3; and</p> <p>(b) He or she makes the threat in New Zealand or outside New Zealand;</p>	<p>Nations as an enforcement action under Chapter VII of the Charter of the United Nations,</p> <p>(b) in which UN workers are engaged as combatants against organised armed forces, and</p> <p>(c) to which the law of international armed conflict applies.</p> <p>(4) In this section- "the Convention" means the Convention on the Safety of United Nations and Associated Personnel adopted by the General Assembly of the United Nations on 9th December 1994; and "specialised agency" has the meaning</p>
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	<p>years.</p> <p>Maximum penalty (aggravated offence): Imprisonment for 9 years.</p> <p>(2) Strict liability applies to paragraphs (1)(b) and (c).</p> <p>71.8 Unlawful sexual penetration</p> <p>(1) A person is guilty of an offence if:</p> <p>(a) the person sexually penetrates another person without the consent of that person; and</p> <p>(b) that other person is a UN or associated person; and</p>		<p>and</p> <p>(c) He or she makes the threat to or in relation to a person whom he or she knows to be a United Nations person or an associated person; and</p> <p>(d) He or she makes the threat with the intention of compelling the person, or any other person, to do or refrain from doing an act</p> <p>(2) Every one who commits a crime against this section is liable on conviction on indictment to imprisonment for a term not exceeding—</p> <p>(a) Seven years; or</p> <p>(b) The term of years prescribed by the relevant provision of the Crimes Act 1961 in respect of the crime that he would have</p>	<p>assigned to it by Article 57 of the Charter of the United Nations.</p> <p>(5) If, in any proceedings, a question arises as to whether-</p> <p>(a) a person is or was a UN worker, or</p> <p>(b) an operation is or was a UN operation, a certificate issued by or under the authority of the Secretary of State and stating any fact relating to the question shall be conclusive evidence of that fact.</p> <p>5. Provisions supplementary to sections 1 to 3 –</p> <p>(1) Proceedings for an offence which (disregarding the provisions of the</p>
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	<p>(c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and</p> <p>(d) the first-mentioned person knows about, or is reckless as to, the lack of consent.</p> <p>Maximum penalty: Imprisonment for 15 years.</p> <p>Maximum penalty (aggravated offence): Imprisonment for 20 years.</p> <p>(2) Strict liability applies to paragraphs (1)(b) and (c).</p>		<p>committed had he carried out his threat in New Zealand,— whichever is the lesser.</p> <p>6. Threats against premises or vehicles—</p> <p>(1A) Every one commits a crime who threatens to do an act, if—</p> <p>(a) The act constitutes a crime against section 4; and</p> <p>(b) He or she makes the threat in New Zealand or outside New Zealand; and</p> <p>(c) He or she makes the threat to or in relation to—</p> <p>(i) Premises that he or she knows to be the official premises or private residence of a United Nations person</p>	<p>Internationally Protected Persons Act 1978, the Suppression of Terrorism Act 1978 and the Nuclear Material (Offences) Act 1983) would not be an offence apart from section 1, 2 or 3 above shall not be begun-</p> <p>(a) in England and Wales, except by or with the consent of the Attorney General;</p> <p>(b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.</p> <p>(2) Without prejudice to any jurisdiction exercisable apart from this subsection, every sheriff court in Scotland shall have jurisdiction to entertain proceedings for an offence</p>
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	<p>(3) In this section:</p> <p><i>sexually penetrate</i> means:</p> <p>(a) penetrate (to any extent) the genitalia or anus of a person by any part of the body of another person or by any object manipulated by that other person;</p> <p>or</p> <p>(b) penetrate (to any extent) the mouth of a person by the penis of another person; or</p> <p>(c) continue to sexually penetrate as defined in paragraph (a) or</p>		<p>or an associated person;</p> <p>or</p> <p>(ii) A vehicle that he or she knows is used by a United Nations person or an associated person; and</p> <p>(d) He or she makes the threat with the intention of compelling the person, or any other person, to do or refrain from doing an act.</p> <p>(2) Every one who commits a crime against this section is liable on conviction on indictment to imprisonment for a term not exceeding 3 years.</p> <p>6A. Sections 3 to 6 not to apply to certain United Nations operations—</p> <p>Sections 3 to 6 do not apply, in relation to United Nations</p>	<p>which (disregarding the provisions of the Internationally Protected Persons Act 1978, the Suppression of Terrorism Act 1978 and the Nuclear Material (Offences) Act 1983)) would not be an offence in Scotland apart from section 1, 2 or 3 above.</p> <p>(3) A person is guilty of an offence under, or by virtue of, section 1, 2 or 3 regardless of his nationality.</p> <p>(4) For the purposes of those sections, it is immaterial whether a person knows that another person is a UN worker.</p> <p>8. Interpretation</p> <p>In this Act- “act” includes omission;</p>
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	<p>(b).</p> <p>(4) In this section, being <i>reckless</i> as to a lack of consent to sexual penetration includes not giving any thought to whether or not the person is consenting to sexual penetration.</p> <p>(5) In this section, the genitalia or others parts of the body of a person include surgically constructed genitalia or other parts of the body of the person.</p> <p>71.9 Kidnapping a UN or associated person</p> <p>(1) A person is guilty of an offence if:</p> <p>(a) the person takes or detains another</p>		<p>personnel and associated personnel, to a United Nations operation—</p> <p>(a) Authorised by the Security Council of the United Nations as an enforcement action under Chapter VII of the Charter of the United Nations; and</p> <p>(b) In which United Nations personnel or associated personnel are engaged as combatants against organised armed forces; and</p> <p>(c) To which the law of international armed conflict applies.</p> <p>7. Prosecution need not prove certain matters—</p> <p>Notwithstanding anything in sections 3 to 6 of this Act, in any proceedings brought under any of those</p>	<p>and</p> <p>“UN worker” has the meaning given in section 4.</p>
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	<p>person without his or her consent; and</p> <p>(b) that other person is a UN or associated person; and</p> <p>(c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and</p> <p>(d) the first-mentioned person takes or detains the UN or associated person with the intention of:</p> <p>(i) holding him or her to ransom or as a</p>		<p>sections, it shall not be necessary for the prosecution to prove the following matters:</p> <p>(a) In respect of—</p> <p>(ii) A United Nations person or an associated person,— that the defendant knew, at the time of the alleged crime, the identity of that person or the capacity in which that person was an internationally protected person, a United Nations person, or an associated person.</p> <p>14. Attorney-General's consent required to prosecutions—</p> <p>(1) Subject to subsection (2) of this section, no proceedings for the trial and punishment of any person</p>	
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	<p>hostage; or</p> <p>(ii) taking or sending him or her out of the country; or</p> <p>(iii) committing a serious offence against him or her or another person.</p> <p>Maximum penalty: Imprisonment for 15 years.</p> <p>Maximum penalty (aggravated offence): Imprisonment for 19 years.</p> <p>(2) Strict liability applies to paragraphs (1)(b) and (c).</p>		<p>charged with a crime against any of sections 3 to 8 of this Act shall be instituted in any Court except with the consent of the Attorney-General.</p> <p>(2) A person charged with a crime against any of those provisions may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the crime has not been obtained, but no further proceedings shall be taken until that consent has been obtained.</p> <p>SCHEDULE 1 CRIMES AGAINST</p>	
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	<p>(3) In this section, <i>serious offence</i> means an offence under a law of the Commonwealth, a State or Territory or a foreign law the maximum penalty for which is death, or imprisonment for not less than 12 months.</p> <p>71.10 Unlawful detention of UN or associated person</p> <p>(1) A person is guilty of an offence if:</p> <p>(a) the person takes or detains another person without that other person's consent; and</p> <p>(b) that other person is a UN or associated person;</p>		<p>PERSONS PROTECTED BY A CONVENTION</p> <p>Section of Crimes Act 1961</p> <p>Subject-matter</p> <p>128 Sexual violation</p> <p>129 Attempt to commit sexual violation</p> <p>142A Compelling indecent act with animal</p> <p>167, 168 Murder</p> <p>171 Manslaughter</p> <p>173 Attempt to murder</p> <p>174 Counselling or attempting to procure murder</p> <p>176 Accessory after the fact to murder</p> <p>188 Wounding with intent</p> <p>189 Injuring with intent</p> <p>191 Aggravated wounding or injury</p> <p>192 Aggravated assault</p> <p>197 Disabling</p> <p>198 Discharging firearm or doing dangerous act with intent</p> <p>199 Acid throwing</p>	
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	<p>and</p> <p>(c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action.</p> <p>Maximum penalty: Imprisonment for 5 years.</p> <p>Maximum penalty (aggravated offence): Imprisonment for 6 years.</p> <p>(2) Strict liability applies to paragraphs (1)(b) and (c).</p> <p>71.11 Intentionally causing damage to UN or associated person's property etc.</p> <p>(1) A person is guilty of an</p>		<p>200 Poisoning with intent 201 Infecting with disease 209 Kidnapping</p> <p>SCHEDULE 2 CRIMES AGAINST PREMISES OR VEHICLES OF PERSONS PROTECTED BY A CONVENTION Section of Crimes Act 1961 Subject-matter</p> <p>267 Arson 268 Attempted arson 269 Intentional damage 270 Endangering transport</p>	
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	<p>offence if:</p> <p>(a) the person's conduct causes damage to official premises, private accommodation or a means of transportation (the <i>property</i>); and</p> <p>(b) the property is occupied or used by a UN or associated person; and</p> <p>(c) the conduct gives rise to a danger of serious harm to a person; and</p> <p>(d) that person is the UN or associated person referred to in paragraph (b); and</p>			
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	<p>(e) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and</p> <p>(f) the first-mentioned person intends to cause the damage to the property; and</p> <p>(g) the first-mentioned person is reckless as to the danger to the person referred to in paragraph (c).</p> <p>Maximum penalty: Imprisonment for 10 years.</p>			
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	<p>(2) Strict liability applies to paragraphs (1)(b), (d) and (e).</p> <p>71.12 Threatening to commit other offences</p> <p>A person is guilty of an offence if the person:</p> <p>(a) threatens to commit an offence (the <i>threatened offence</i>) under any of sections 71.2 to 71.11; and</p> <p>(b) intends to compel any other person to do or omit to do an act by making the threat.</p> <p>Maximum penalty:</p> <p>(a) if the threatened</p>			
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	<p>offence is the offence under section 71.2 (murder of a UN or associated person)—imprisonment for 10 years; or</p> <p>(b) if the threatened offence is the offence under section 71.3, 71.4, 71.5, 71.8 or 71.9 (manslaughter of, causing serious harm to, kidnapping, or sexually penetrating, a UN or associated person)—imprisonment for 7 years; or</p>			
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	<p>(c) if the threatened offence is the offence under section 71.6 or 71.11 (causing harm to, or damaging the property etc. of, a UN or associated person)—imprisonment for 5 years; or</p> <p>(d) if the threatened offence is the offence under section 71.7 or 71.10 (recklessly causing harm to, or unlawful detention of, a UN or associated person)—imprisonment for 3 years.</p> <p>71.13 Aggravated offences</p>			
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	<p>(1) For the purposes of this Division, an offence against section 71.4, 71.5, 71.6, 71.7, 71.8, 71.9 or 71.10 is an <i>aggravated offence</i> if:</p> <ul style="list-style-type: none"> (a) the offence was committed during torture; or (b) the offence was committed by the use or threatened use of an offensive weapon; or (c) the offence was committed against a person in an abuse of authority. <p>(2) If the prosecution intends to prove an aggravated offence, the</p>			
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	<p>charge must allege the relevant aggravated offence.</p> <p>(3) In order to prove an aggravated offence, the prosecution must prove that the defendant intended to commit, or was reckless as to committing, the matters referred to in paragraph (1)(a), (b) or (c).</p> <p>(4) In this section:</p> <p><i>offensive weapon</i> includes:</p> <p>(a) an article made or adapted for use for causing injury to, or incapacitating, a person; or</p> <p>(b) an article where</p>			
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	<p>the person who has the article intends, or threatens to use, the article to cause injury to, or to incapacitate, another person.</p> <p><i>torture</i> means the deliberate and systematic infliction of severe pain over a period of time.</p> <p>71.16 Jurisdictional requirement</p> <p>(1) A person commits an offence under this Division only if:</p> <p>(a) the conduct constituting the alleged offence occurs:</p> <p>(i) wholly or</p>			
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	<p>partly in Australia; or</p> <p>(ii) wholly or partly on board an Australian aircraft or an Australian ship; or</p> <p>(b) the conduct constituting the alleged offence occurs wholly outside Australia and:</p> <p>(i) at the time of the alleged offence, the person is an Australian citizen; or</p> <p>(ii) at the time of the alleged offence, the</p>			
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	<p>person is a body corporate incorporated by or under a law of the Commonweal th or of a State or Territory; or</p> <p>(iii) at the time of the alleged offence, the person is a stateless person whose habitual residence is in Australia; or</p> <p>(iv) the conduct is subject to the jurisdiction of another State Party to the</p>			
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	<p>Convention established in accordance with paragraph 1 or 2 of article 10 and the person enters Australia; or</p> <p>(c) the alleged offence is committed against an Australian citizen; or</p> <p>(d) by engaging in the conduct constituting the alleged offence, the person intends to compel a legislative, executive or judicial institution</p>			
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	<p>of the Commonwealth, a State or a Territory to do or omit to do an act.</p> <p>(2) In this section:</p> <p><i>Australian aircraft</i> means:</p> <p>(a) an aircraft registered, or required to be registered, under the Civil Aviation Regulations as an Australian aircraft; or</p> <p>(b) an aircraft (other than a defence aircraft) that is owned by, or in the possession or control of, a Commonwealth entity; or</p>			
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	<p>(c) a defence aircraft.</p> <p><i>Australian ship</i> means:</p> <p>(a) a ship registered, or required to be registered, under the <i>Shipping Registration Act 1981</i>; or</p> <p>(b) an unregistered ship that has Australian nationality; or</p> <p>(c) a defence ship.</p> <p><i>defence aircraft</i> means an aircraft of any part of the Australian Defence Force, and includes an aircraft that is being commanded or piloted by a member of that Force in the course of his or her duties as such a member.</p>			
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	<p><i>defence ship</i> means a ship of any part of the Australian Defence Force, and includes a ship that is being operated or commanded by a member of that Force in the course of his or her duties as such a member.</p> <p>71.20 Bringing proceedings under this Division</p> <p>(1) Proceedings for an offence under this Division must not be commenced without the Attorney-General's written consent.</p> <p>(2) However, a person may be arrested, charged, remanded in custody, or</p>			
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	<p>released on bail, in connection with an offence under this Division before the necessary consent has been given.</p> <p>71.23 Definitions</p> <p>(1) In this Division:</p> <p><i>associated personnel</i> means:</p> <p>(a) persons assigned by a government, or an intergovernmental organisation, with the agreement of the competent organ of the United Nations; or</p> <p>(b) persons engaged by the Secretary-General of the United</p>			
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	<p>Nations, a specialised agency or the International Atomic Energy Agency; or</p> <p>(c) persons deployed by a humanitarian non-governmental organisation or agency under an agreement with the Secretary-General of the United Nations, a specialised agency or the International Atomic Energy Agency;</p> <p>to carry out activities in support of the</p>			
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	<p>fulfilment of the mandate of a UN operation.</p> <p>Convention means the Convention on the Safety of United Nations and Associated Personnel, done at New York on 9 December 1994.</p> <p>UN enforcement action means a UN operation:</p> <p>(a) that is authorised by the Security Council as an enforcement action under Chapter VII of the Charter of the United Nations; and</p> <p>(b) in which any of the UN or</p>			
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	<p>associated personnel are engaged as combatants against organised armed forces; and</p> <p>(c) to which the law of international armed conflict applies.</p> <p><i>UN operation</i> means an operation established by the competent organ of the United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and control if:</p> <p>(a) the operation is for the purpose of maintaining or restoring international peace</p>			
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	<p>and security; or</p> <p>(b) the Security Council or the General Assembly has declared, for the purposes of the Convention, that there exists an exceptional risk to the safety of the personnel engaged in the operation.</p> <p><i>UN or associated person</i> means a person who is a member of any UN personnel or associated personnel.</p> <p><i>UN personnel</i> means:</p> <p>(a) persons engaged or deployed by the Secretary-General of the United Nations as</p>			
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	<p>members of the military, police or civilian components of a UN operation; or</p> <p>(b) any other officials or experts on mission of the United Nations, its specialised agencies or the International Atomic Energy Agency who are present in an official capacity in the area where a UN operation is being conducted.</p> <p>(2) In this Division, a person's conduct causes death or harm if it substantially contributes to the death or harm.</p>			
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