

No. 16 of 1993. The *Nuclear Material* (Offences) Act,
1993.

ANTIGUA
AND
BARBUDA

[L.S.]

I Assent,

B.T. Carrott,
Governor-General's Deputy.

26th May, 1993.

ANTIGUA AND BARBUDA

No. 16 of 1993

AN ACT to implement the Convention on the Physical Protection
of Nuclear Material and for purposes connected therewith.

[10th June, 1993]

ENACTED by the Parliament of Antigua and Barbuda as
follows —

1. This Act may be cited as the Nuclear Material (Offences) short title.
Act. 1993.

2. In this Act — Interpretation.

"the Convention" means the Convention on the Physical
Protection of Nuclear Material opened for signature at
Vienna and New York on 3rd March 1980;

"act" includes omission.

3. If a person, whatever his nationality, does outside Antigua and Barbuda, in relation to or by means of nuclear material any act which, had he done it in Antigua and Barbuda, would have made him guilty of — **Extended scope of certain offences.**

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1993.

- (a) the offence of **murder**, manslaughter, culpable homicide, assault; or
- Cap. 58. (b) an offence under sections **11, 12, 17, and 19** of the Offences Against the Person Act;
- Cap. 51. (c) an offence under the Malicious Damage Act;
- (d) the offences of theft, embezzlement, robbery, assault with intent to rob, burglary; or
- (e) the offence of fraud or extortion;

he shall be guilty of such of the offences mentioned in paragraphs (a) to (e).

Offences involving preparatory acts and threats.

4. (1) If a person, whatever his nationality, in Antigua and Barbuda or elsewhere contravenes subsections (2), (3) or (4) he shall be guilty of an offence.

(2) A person contravenes this subsection if he receives, holds or deals with nuclear material —

- (a) intending, or for the purposes of enabling another, to do by means of that material an act which is an offence mentioned in section **3 (a)** or **(b)**; or
- (b) being reckless as to whether another would do such an act.

(3) A person contravenes this subsection if he —

- (a) makes to another person a threat that he or any other person will do by means of nuclear material such an act as is mentioned in subsection **(2) (a)**; and
- (b) intends that the person to whom the threat is made shall fear that it will be carried out.

(4) A person contravenes this subsection if, in order to compel a State, international governmental organisation or person to do, or abstain from doing, any act, he threatens that he, or any other person will obtain nuclear material by any act which is an offence mentioned in section **3 (1) (d)**.

(5) A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term of fourteen years and not exceeding the term of imprisonment to which a person would be liable for the offence constituted by doing the contemplated act at the place where the conviction occurs and at the time of the offence to which the conviction relates.

(6) In subsection (5) "contemplated act" means —

- (a) where the conviction relates to an offence under subsection (2), the act intended or as the doing of which the person convicted was reckless, as the case may be; and
- (b) where the conviction relates to an offence under subsection (3) or (4), the act threatened.

(7) In this section references to an act which is an offence mentioned in section 3 (1) (a), (b), (c) or (d) are references to an act which by virtue of that subsection or otherwise, is an offence so mentioned.

5. (1) Subject to subsection (2), no proceedings for the trial and punishment of any person charged with any offence under section 3 or 4 shall be instituted in any court except with the consent of the Director of Public Prosecutions.

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Director of Public
Prosecutions.

(2) A person charged with an offence under those sections 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 Director of Public Prosecutions has not been obtained, but no further proceedings shall be taken until that consent has been obtained.

6. (1) References in this Act to nuclear material are references to material which, within the meaning of the Convention, is nuclear material used for peaceful purposes.

Material to which
the Act applies.

(2) If in any proceedings a question arises whether any material was used for peaceful purposes, a certificate issued by or under the authority of the Minister charged with responsibility for External Affairs and stating that it was, or was not, so used at the time specified in the certificate shall be conclusive of that question.

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(3) In any proceedings a document purporting to be such a certificate as is mentioned in subsection (2) shall be taken to be such a certificate unless the contrary is proved.

(4) Paragraphs (a) and (b) of Article 1 of the Convention (which give the definition of "nuclear material" for the purposes of the Convention) are set out in the Schedule.

SCHEDULE

Section 6 (4)

ARTICLE 1 (A) and (B) OF THE CONVENTION

ARTICLE 1

For the purposes of this Convention:

- (a) "nuclear material" means plutonium except that with isotopic concentration exceeding 80% in the plutonium-238; uranium-233; uranium enriched in the isotopes 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of one or one-residence; any material containing one more of the foregoing;

"uranium enriched in the isotopes 235 or 233" means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotopes 238 is greater than the ratio of the isotopes 235 to the isotopes 238 occurring in nature.

Passed the House of Representatives this
26th day of April, 1993.

Passed the Senate this 17th day of
May, 1993.

C.L. Murray,
Speaker.

William A. Robinson,
Vice-President.

L.A. Dowe,
Clerk to the House of Representatives.

L.A. Dowe,
Clerk to the Senate.

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