

LEGISLATIVE COUNCIL BRIEF

UNITED NATIONS (ANTI-TERRORISM MEASURES) ORDINANCE (COMMENCEMENT) NOTICE 2010

UNITED NATIONS (ANTI-TERRORISM MEASURES) (AMENDMENT) ORDINANCE 2004(COMMENCEMENT) NOTICE 2010

INTRODUCTION

This brief provides information on the United Nations (Anti-Terrorism Measures) Ordinance (Commencement) Notice 2010 and the United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004 (Commencement) Notice 2010 (“the Notices”) to be published in the Gazette on 15 October 2010, at **Annex**.

2. The Notices appoint 1 January 2011 as the day on which the uncommenced provisions¹ of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (“the Ordinance”) and the United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004 (“the Amendment Ordinance”) come into operation.

BACKGROUND

3. The Administration enacted the Ordinance and the Amendment Ordinance in 2002 and 2004 respectively to fulfill Hong Kong’s international obligations to combat acts of terrorism and terrorist financing under United Nations Security Council Resolution 1373², the Special

¹ For the Ordinance, sections 5, 6, 8, 13, 14(2) and (3), 15, 17, and 18. Further, sections 3 and 14(1) in so far as they relate to section 8 of the Ordinance. For the Amendment Ordinance, sections 5, 7, 12, 13, 14(1), 15, 16, 17, 18, 21(2) and 23. Further, section 14(3) in so far as it relates to the addition of section 14(7E), (7F), (7G), (7H), (7I) and (7J) of the Ordinance, as well as section 21(1) in so far as it relates to sections 5, 6, 13, 17 and 18 of the Ordinance.

² United Nations Security Council Resolution 1373, which was passed on 28 September 2001, aims at combatting international terrorism on various fronts, including measures against terrorist financing. United Nations Security Council Resolution 1373 is binding on all Member States. The Central People’s Government gave instructions to the HKSARG in October 2001 to implement the resolution.

Recommendations of the Financial Action Task Force on Money Laundering (FATF)³ and the relevant Conventions⁴.

4. The Administration published in the Gazette the legal notice 137 in 2002 as well as legal notices 172 and 173 in 2004 to commence the operation of certain provisions of the Ordinance and the Amendment Ordinance. The other provisions of the Ordinance and the Amendment Ordinance which remain uncommenced (“the uncommenced provisions”) can only take effect after the relevant court rules and code of practice have been made. The court rules and code of practice have been passed by LegCo in December 2009 and July 2010 respectively. Accordingly, we have published two Commencement Notices in the Gazette on 15 October 2010 to appoint 1 January 2011 as the commencement date for the above-mentioned uncommenced provisions.

JUSTIFICATION

5. FATF completed an evaluation on Hong Kong in 2008. While recognizing the strengths of Hong Kong’s anti-money laundering regime, the evaluation identified a list of deficiencies that Hong Kong should address. The fact that the Ordinance and the Amendment Ordinance are not yet in full operation was considered as one of the main deficiencies. Failure to follow up on the recommendations of the evaluation within a reasonable period may entail more enhanced scrutiny and monitoring by FATF which would severely restrain the development of our financial services sectors and have negative impact on our status as an international financial centre.

6. Given that Hong Kong needs to address the deficiencies identified by FATF and to fulfill our international obligations to combat acts of terrorism and terrorist financing, the Administration considers it necessary to bring the uncommenced provisions of the Ordinance and the Amendment Ordinance into operation on 1 January 2011.

³ Hong Kong has been an active member of the FATF, an inter-governmental body which recommends standards and best practices in countering money laundering and terrorist financing. In October 2001, FATF made eight Special Recommendations, setting out the key legislative and regulatory steps that the FATF considers jurisdictions should adopt to stop terrorist financing. In October 2004, FATF made the ninth Special Recommendation.

⁴ The relevant Conventions include the International Convention for the Suppression of Terrorist Bombings, the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf.

THE NOTICES

7. The Notices bring the uncommenced provisions of the Ordinance and the Amendment Ordinance into operation on 1 January 2011.

ENQUIRIES

8. Enquiries on this brief could be referred to Mr David Lau, Principal Assistant Secretary for Security, at telephone number 2810 2329.

Security Bureau
October 2010

**UNITED NATIONS (ANTI-TERRORISM
MEASURES) ORDINANCE (COMMENCEMENT)
NOTICE 2010**

Under section 1(2) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), I appoint 1 January 2011 as the day on which the uncommenced provisions of the Ordinance come into operation.

Secretary for Security

29 September 2010

**UNITED NATIONS (ANTI-TERRORISM
MEASURES) (AMENDMENT) ORDINANCE 2004
(COMMENCEMENT) NOTICE 2010**

Under section 1(2) of the United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004 (21 of 2004), I appoint 1 January 2011 as the day on which the uncommenced provisions of the Ordinance come into operation.

Secretary for Security

29 September 2010