

**Extract from the paper provided by the Security Bureau on  
"Clause-by-Clause Explanation"  
(LC Paper No. CB(2)2267/01-02(01))**

Clause No.	Purpose	Corresponding UNSCR 1373 or FATF Special Recommendations	Precedents in Overseas Jurisdictions/Remarks
		X X X X X X X	
5	Freezing of funds	<p>Paragraph 1(a) of UNSCR 1373 – “Prevent and suppress the financing of terrorist acts.”</p> <p>Paragraph 1(c) of UNSCR 1373 – “Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities.”</p>	<p>Under the UK Terrorism (United Nations Measures) Order 2001, the Treasury may direct funds to be frozen where it has reasonable grounds for suspecting that the person on behalf of whom funds are held is, or may be, a person who commits etc. acts of terrorism. The order shall cease to have effect in accordance with any decision of the Security Council to cancel or suspend the operation of Resolution 1373. There is no other time restriction on the operation of the order.</p> <p>Similar provisions apply under the UK Afghanistan (United Nations Sanctions) Order SI 396 and the UK Al Qaida and Taliban (United Nations Measures) Order 2002 (SI 2002/111)</p>

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		<p>Clause 5 also gives effect to FATF Special Recommendation III which reads, “Each country should implement measures to freeze without delay funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts. Each country should also adopt and implement measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations.”</p>	<p>Under the UK Anti-Terrorism, Crime and Security Act, the UK Treasury has a power to make a freezing order against a person or government outside the UK if it reasonably believes that action to the detriment of the UK’s economy or constituting a threat to the life or property of a UK national or resident has been or is likely to be taken. The Treasury must keep the order under review and it ceases to have effect at the end of a period of 2 years. The order must be laid before Parliament after being made and ceases to have effect at the period of 28 days unless approved by resolution of each house of Parliament. The provision has not yet been used.</p> <p>In USA, by the Executive Order on Terrorist Financing, the President can issue lists on foreign persons blocking their property.</p> <p>Clause 5 of the United Nations (Anti-Terrorism Measures) Bill deals with the freezing of terrorist funds. We consider that freezing of property other than funds (such as real property) may not be needed at present. Clause 19 however will enable regulations to be made should the need arise.</p>

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<p><b>X X X X X X X</b></p>			
19	Regulations – freezing of property (other than funds)	<p>Paragraph 1(a) of UNSCR 1373 – “Prevent and suppress the financing of terrorist acts;”</p> <p>Paragraph 1(c) of UNSCR 1373 – “Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities.”</p> <p>FATF Special Recommendation III requires the freezing of funds or other assets of terrorists.</p>	<p>Please refer to clause 5 above.</p> <p>We have not prepared the draft regulations as we do not see the need to deal with the freezing of property, other than funds, at the present stage.</p>

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Schedule 1	Definition of “funds”	-	This definition is based on the definition of “funds” provided under the UK Terrorism (United Nations Measures) Order 2001
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