

**Draft**

UNITED NATIONS (ANTI-TERRORISM MEASURES)(AMENDMENT) BILL 2003

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
2(a)	<p>(a) By adding –</p> <p>“(ia) in the definition of “terrorist act” in paragraph</p> <p>(a)(i) –</p> <p>(A) by repealing “(including, in the case of a threat, the action if carried out)” and substituting “is carried out with the intention of, or the threat is made with the intention of using action that would have the effect of”;</p> <p>(B) in sub-subparagraphs (A) and (B), by repealing “causes” and substituting “causing”;</p> <p>(C) in sub-subparagraph (C), by repealing “endangers” and substituting “endangering”;</p> <p>(D) in sub-subparagraph (D), by repealing “creates” and substituting “creating”;</p> <p>(E) in sub-subparagraphs (E) and (F), by repealing “is intended seriously to interfere with or seriously to disrupt” and</p>

substituting “seriously interfering with or seriously disrupting”;

- (b) In subparagraph (iii) –
  - (i) in the proposed definition of “premises” in paragraph (b) by deleting “removable” and substituting “movable”;
  - (ii) in the proposed definition of “public body” in paragraph (b) by deleting “public”.

5 In paragraph (g) by adding –

“(11) The Secretary may exercise the powers under subsection (10) only if he has reasonable cause to suspect that the relevant property will be removed from the HKSAR.”.

New By adding –

**“5A. Prohibition on provision or collection of funds to commit terrorist acts**

Section 7 is amended –

- (a) in paragraph (a), by repealing “directly or indirectly supplied to or otherwise used by” and substituting “used”;
- (b) in paragraph (b) –
  - (i) by repealing “or having reasonable grounds to believe”;
  - (ii) by repealing “directly or indirectly supplied to or otherwise used by” and substituting “used”;
- (c) by repealing “a person who the first-mentioned person knows or has

reasonable grounds to believe is a terrorist or terrorist associate” and substituting “to commit a terrorist act (whether or not the funds are actually so used)”.”.

6 By deleting the proposed section 10 and substituting –

**“10. Prohibition on recruitment, etc. to a body specified in a section 4(1) notice or a section 5(2) order**

(1) A person shall not –

- (a) recruit another person to become a member; or
- (b) become a member,

of a body specified in a notice published in the Gazette under section 4(1) or (2) or an order published in the Gazette under section 5(3), which the first-mentioned person knows or has reasonable grounds to believe is a body specified in such a notice or order (as the case may be).

(2) Where a person is a member of a body specified in a notice published in the Gazette under section 4(1) or (2) or an order published in the Gazette under section 5(3), the person shall, as soon as practicable after the person knows or has reasonable grounds to believe that the body is specified in such a notice or order (as the case may be), take all practicable steps to cease to be such a member.

(3) In this section, “body” ( ) means a body of persons, whether corporate or unincorporate.”.

- 7
- (a) In the proposed section 11B –
    - (i) in subsection (1) by adding “unlawfully and intentionally” after “not”;
    - (ii) in subsection (2) by adding “unlawfully and intentionally” after “not”;
    - (iii) in subsection (2)(a) by deleting “the destruction of all or part” and substituting “extensive destruction”;
    - (iv) by deleting subsection (2)(b) and substituting –
      - “(b) where such destruction results in or is likely to result in major economic loss.”.
  - (b) In the proposed section 11E(1) by deleting “without lawful excuse,” and substituting “unlawfully and”.
  - (c) In the proposed section 11F(1) by deleting “without lawful excuse,” and substituting “unlawfully and”.
- 8
- In the proposed section 12(6) –
- (a) in paragraph (a) by adding “, for the purpose of preventing and suppressing the financing of terrorist acts” after “Corruption”;
  - (b) in paragraph (b)(i) by deleting “promoting multi-lateral cooperation in”.
- 9
- (a) In the proposed section 12A –
    - (i) by deleting subsection (3)(c)(ii) and substituting –
      - “(ii) to produce any material, or any material of a class, that reasonably appears to the authorized officer to be relevant to the investigation,”;

- (ii) in subsection (6) –
    - (A) by deleting “to relate to any matter relevant to an investigation, or any material of a class that reasonably appears to him so to relate” and substituting “to be relevant to the investigation or be of a class that is so relevant”;
    - (B) by deleting “so to relate or any material of a specified class that reasonably appears to him so to relate” and substituting “to be so relevant or any material of a specified class that reasonably appears to him to be so relevant”;
  - (iii) in subsection (7)(c) by deleting “, (9)”;
  - (iv) by deleting subsection (9);
  - (v) in subsection (11) by deleting “A person” and substituting “Subject to section 2(5)(a) and (b), a person”;
  - (vi) in subsection (12) by deleting everything after “except” and substituting “in evidence in proceedings under section 14(7F) or under section 36 of the Crimes Ordinance (Cap. 200).”.
- (b) In the proposed section 12B(13) by deleting “A person” and substituting “Subject to section 2(5)(a) and (b), a person”.
  - (c) In the proposed section 12D(2) –
    - (i) in paragraph (a) by adding “, for the purpose of preventing and suppressing a relevant offence” after “Corruption”;
    - (ii) by deleting paragraph (b) and substituting –

“(b) to any corresponding person or body, where the information appears to the Secretary for Justice to be likely to assist that person or body to discharge its functions relating to preventing and suppressing offences of a similar nature to relevant offences; and”.

(d) In the proposed section 12G –

(i) by deleting subsection (1) and substituting –

“(1) Where it appears to the Court upon the oath of any person that there is reasonable cause to suspect that –

(a) in any premises there is terrorist property; or

(b) there is in any premises any thing that is, or contains, evidence of a relevant offence,

the Court may, by its warrant directed to any authorized officer, empower the officer with such assistance, and by such force, as is necessary and reasonable, to enter the premises named in the warrant and there to search, seize, remove and detain any terrorist property.”;

(ii) in subsection (2) by deleting “Any authorized officer” and substituting “An authorized officer who has entered any premises by virtue of a warrant issued under subsection (1)”.

(a) By renumbering the clause as clause 14(2).

(b) By adding –

“(1) Section 18(2)(c) is amended by repealing “serious”.”.

(c) In subclause (2) in the proposed section 18(2B)(a) by deleting “serious”.

New

By adding –

**“14A. Section added**

The following is added –

**“18A. Saving of common law remedies**

(1) Subject to subsection (2), nothing in section 18 affects any remedy available to a person at common law in respect of any default on the part of a person concerned –

- (a) in obtaining a specification under section 5(2) or 6(1); or
- (b) with the seizure or detention of property under Part 4B.

(2) Where a court orders any compensation under section 18 or damages at common law in respect of any such default, the court shall take into account, in reduction of the amount of compensation or damages, any amount awarded as damages or ordered as compensation (as the case may be) in respect of that default.”.”.

Schedule,  
section 1

In the proposed section 25A(9) –

- (a) in paragraph (a) by adding “, for the purpose of combating drug trafficking” after “Corruption”;
- (b) in paragraph (b)(i) by deleting “promoting multi-lateral cooperation in”.

Schedule,  
section 2

In the proposed section 25A(9) –

- (a) in paragraph (a) by adding “, for the purpose of combating crime” after “Corruption”;
- (b) in paragraph (b)(i) by deleting “promoting multi-lateral cooperation in”.