

**Bills Committee on
United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003**

Purpose

This paper addresses the issues raised by the Bills Committee at its meeting on 15 April 2004.

Definition of “public body”

2. The definition of “public body” is provided for the purposes of the new sections 12A(10), 12B(7) and 12B(12). These provisions are intended to put it beyond doubt that a public body may be required to furnish information or produce materials in accordance with a court order issued under the new section 12A(2) or 12B(2). Regarding the new section 2(8), we have no intention to specify organizations that are purely private.

3. We have carefully further considered the provisions mentioned in paragraph 2 above. The new sections 12A and 12B specify that the Court may make an order requiring a “person” to furnish information or produce materials. “Person” is defined in the Interpretation and General Clauses Ordinance (Cap. 1) as including “any public body and any body of persons, corporate or unincorporate”. It is therefore sufficiently clear that a “public body” will be statutorily obliged to comply with a court order issued under the new section 12A or 12B. Given this, we propose to delete the definition of “public body”, sections 2(8), 12A(10), 12B(7) and 12B(12).

New section 7 – prohibition on provision or collection of funds to commit terrorist acts

4. A Member has suggested amending the new section 7 to the effect that funds supplied “in whole or in part” for committing a terrorist act will be criminalized, taking reference from the Canadian Anti-Terrorism Act. Our view is that “funds” in the new section 7 already means the whole or part of the funds. We therefore consider that the suggested amendment would not be necessary.

Sections 8, 9 and new section 10 – prohibition on making funds, etc. available to terrorists and terrorist associates; prohibition on supply of weapons to terrorists and terrorist associates; prohibition on recruitment, etc. to terrorist groups

5. A Member has suggested replacing the mental element of “having reasonable grounds to believe” with “recklessness” in sections 8, 9 and the new section 10. We are examining the implications of the proposal and will provide a response to the Bills Committee.

New section 10 – prohibition on recruitment, etc. to terrorist groups

6. A Member has suggested further amending the drafting of the new section 10(1) to make it clear that a person shall not recruit members for or become a member of a terrorist group knowing or having reasonable grounds to believe that it has been gazetted under section 4 or 5. We agree to this suggestion.

7. The Member has also proposed replacing “after he knows in the new section 10(2) with “after it comes to his knowledge” to improve the drafting of that section. We agree to this proposal.

Section 12 – disclosure of knowledge or suspicion that property is terrorist property

8. A Member has suggested section 12 be revised, adopting the formulation in the United Kingdom Terrorism Act 2000. We are considering this suggestion in detail and will provide a response to the Bills Committee.

New section 12(6) – information exchange between local and overseas law enforcement authorities

9. Members have requested to know the modus operandi for information exchange between local and overseas law enforcement agencies under the new section 12(6), as well as the jurisdictions with which the local law enforcement agencies have plans to establish such exchanges. We are collating the required information for submission to the Bills Committee.

10. A Member has suggested the new section 12(6)(b) be further revised by stipulating the purpose of disclosure at the end of the provision, and similar revisions be made to the new section 12D(2)(b) and the consequential amendments to the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Organized and Serious Crimes Ordinance (Cap. 455). We consider this suggestion agreeable as far as the new section 12(6)(b) and the consequential amendments to Cap. 405 and Cap. 455 are concerned. Regarding the new section 12D(2)(b), it should be noted that our proposed CSA presented to the Bills Committee meeting on 15 April 2004 already states the purpose of disclosure at the end of the provision.

New section 12A(12) – statement by a person not be used against him in criminal proceedings against him

11. A Member has proposed that a provision similar to the new section 12A(12) be added to the new section 12B, such that materials provided by a person in response to a requirement imposed by virtue of section 12B may not be used against him in criminal proceedings against him. Section 12A will be used mainly to require persons to answer questions and provide information. Section 12B, on the other hand, will essentially be used for compelling persons to produce such materials as documents.

12. The scope of extending the privilege against self-incrimination to the production of documents is limited. In HKSAR v Lee Ming Tee & Another [2001] HKLRD 599, the Court of Final Appeal has apparently endorsed the view, agreed by leading counsel from both sides, that no privilege against self-incrimination attaches to company documents which a suspect company staff is required to produce. The judgment also states that “it is important to bear in mind that the purpose of the privilege is to respect the will of the accused to remain silent, thereby ensuring that the accused is not compelled to provide proof of his or her guilt. The privilege has no application to evidence which exists independently of the will of the accused. This proposition was expressly recognised in *Saunders v United Kingdom* (1996) 23 EHRR 313 at para 69.” The Australian High Court, in Environmental Protection Authority v Caltex Refining Co Pty Ltd [1994] 178 CLR 477, and the United Kingdom House of Lords, in R v Hertfordshire County Council Ex Parte Green Environmental Industries Ltd & Another [2002] 2 A.C. 412, have made similar rulings. If a provision similar to section 12A(12) is added to section 12B, materials produced under section 12B will not be

admissible in a criminal trial against the producer of the materials even though he could not have claimed the privilege against self-incrimination in respect of the materials. This cannot be desirable and would be counter productive to the successful prosecution of terrorist financing offences.

New section 12G(1) – issue of search warrants

13. A Member has asked if the Court has to specify the level of assistance and force in a search warrant under the new section 12G(1). The section, as set out in our proposed CSAs presented to the Bills Committee meeting on 15 April 2004, provides that the Court may empower the law enforcement agencies with such assistance, and by such force, as is necessary and reasonable, to enter premises. It does not require the Court to specify the level of assistance and force. It is a matter for the law enforcement agencies to decide what assistance and force is to be used, on condition that the use of such assistance and force is necessary and reasonable. Sections 8 and 13 of the Crimes Ordinance (Cap. 200), section 5 of the Biological Weapons Ordinance (Cap. 491) and section 50(7) of the Police Force Ordinance (Cap. 232) have similar provisions.

14. We have also compiled a summary of the law enforcement powers available to some overseas jurisdictions for the purpose of combating terrorist financing at **Annex A**. It can be noted that the powers are similar to those under the new Parts 4A and 4B.

New section 18A – saving of common law remedies

15. A Member has suggested the new section 18A(1), as set out in our proposed CSAs presented to the Bills Committee meeting on 15 April 2004, be further improved by deleting everything after “common law”. We agree to this suggestion.

16. Some Members have proposed that section 18 be amended to provide for a compensation arrangement that is better than the common law position, in view of the Administration’s wide freezing power under section 6. In this respect, we have set out the statutory freezing mechanisms for terrorist funds and other property in some major overseas common law jurisdictions, namely, Australia, Canada, New Zealand, the United Kingdom and the United States, at **Annex B**. It can be noted that

the relevant powers in their freezing mechanisms are exercised by their executive authorities.

17. Subject to discussion on the above proposed amendments at the Bills Committee, we will prepare the necessary CSAs accordingly.

Security Bureau
April 2004

**Overseas anti-terrorist financing legislation –
Law enforcement powers**

UN (ATM) (Amdt) Bill 2003¹	United Kingdom	United States	Australia	New Zealand	Canada	Singapore	UNODC Model Bill²
Section 12A – requirement to furnish information or produce material	<p>The Terrorism (United Nations Measures) Order 2001</p> <p><u>Article 8</u></p> <p>(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Treasury may direct any person to furnish to them any information in his possession or control, or to produce to them any document in his possession or</p>	<p>United States Code, Title 31 (as amended by USA PATRIOT Act of 2001)</p> <p><u>Section 5318</u></p> <p>(a) General Powers of Secretary -</p> <p>The Secretary of the Treasury may -</p> <p>(1) except as provided in subsection (b)(2), delegate duties and powers under this subchapter to an appropriate</p>	<p>Australian Security Intelligence Organisation Act 1979</p> <p><u>Section 34A</u></p> <p>“issuing authority” means :</p> <p>(a) a person appointed under section 34AB (a Federal Magistrate or a Judge); or</p> <p>(b) a member of a class of persons declared by regulations made for the purposes of that</p>	<p>Proceeds of Crime Act 1991</p> <p><u>Section 68</u></p> <p>(1) A commissioned officer of the police may apply to a Judge of the High Court for a production order under section 69 of this Act if –</p> <p>(a) one of the following situations exists :</p> <p>(iii) a person has been convicted of</p>	<p>Anti-terrorism Act (amending the Criminal Code)</p> <p><u>Section 83.28</u></p> <p>(1) In this section, and section 83.29, “judge” means a provincial court judge or a judge of a superior court of criminal jurisdiction.</p> <p>(2) Subject to subsection (3), a peace officer may, for the purposes of an investigation of a terrorism offence</p>	<p>Terrorism (Suppression of Financing) Act 2002</p> <p><u>Section 8</u></p> <p>(1) Every person in Singapore and every citizen of Singapore outside Singapore who –</p> <p>(a) has possession, custody or control of any property belonging to any terrorist or terrorist</p>	<p><u>Section 21</u></p> <p>For the purpose of determining whether any property belongs to or is in the possession or under the control of any person, the FIU or a law enforcement agency, may, upon application to the Court, obtain an order :</p> <p>(a) that any document relevant to :</p> <p>(i) identifying, locating or quantifying any</p>

¹ The United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003

² The UNODC Model Money-Laundering, Proceeds of Crime and Terrorist Financing Bill 2003 has been developed by the United Nations Office on Drugs and Crime (UNODC) for use in countries whose fundamental legal systems are substantially based on the common law tradition. Like any model, it will need to be adjusted to ensure both domestic legal validity (e.g. in terms of constitutional principles and other basic concepts of its legal system) and domestic operational effectiveness (e.g. in terms of implementation arrangements and infrastructure).

³ Penalties set out in this table mean the respective penalties prescribed for contravention or non-compliance with the law enforcement provisions concerned.

UN (ATM) (Amdt) Bill 2003 ¹	United Kingdom	United States	Australia	New Zealand	Canada	Singapore	UNODC Model Bill ²
	<p>control, which they may require for the purpose of securing compliance with or detection of evasion of this Order or any law making provision with respect to any of the matters regulated by this Order that is in force in any of the Channel Islands, Isle of Man or any territory listed in the Schedule to this Order; and any person to whom such a direction is made shall comply with it within such time and in such manner as may be specified in the direction.</p> <p>(2) Nothing in paragraph (1) shall</p>	<p>supervising agency and the United States Postal Service;</p> <p>(2) require a class of domestic financial institutions to maintain appropriate procedures to ensure compliance with this subchapter and regulations prescribed under this subchapter or to guard against money laundering;</p> <p>(3) examine any books, papers, records, or other data of domestic financial</p>	<p>section to be issuing authorities.</p> <p><u>Section 34C</u></p> <p>(1) The Director-General [of Security] may seek the Minister's consent to request the issue of a warrant under section 34D in relation to a person.</p> <p>(2) In seeking the Minister's consent, the Director-General must give the Minister a draft request that includes:</p> <p>(a) a draft of the warrant</p>	<p>a serious offence, and there are reasonable grounds to suspect that it is an offence to which subsection (1A) applies:</p> <p>(iv) the officer has reasonable grounds for believing that a person has committed a serious offence to which subsection (1A) applies; and</p> <p>(b) the officer has reasonable grounds for believing that a person has possession or</p>	<p><i>(which includes a terrorist financing offence)</i>, apply <i>ex parte</i> to a judge for an order for the gathering of information.</p> <p>(3) A peace officer may make an application under subsection (2) only if the prior consent of the Attorney General was obtained.</p> <p>(4) A judge to whom an application is made under subsection (2) may make an order for the gathering of information if the judge is satisfied that the</p>	<p>entity; or</p> <p>(b) has information about any transaction or proposed transaction in respect of any property belonging to any terrorist or terrorist entity,</p> <p>shall immediately inform the Commissioner of Police of that fact or information.</p> <p>(2) The Commissioner may require the person referred to in subsection (1) to furnish such further information or particulars as the Commissioner</p>	<p>such property; or</p> <p>(ii) identifying or locating any document necessary for the transfer of any such property,</p> <p>belonging to, or in the possession or control of that person be delivered forthwith to the FIU or law enforcement agency;</p> <p>(b) that the financial institution or cash dealer forthwith produce to the FIU or law enforcement agency all information obtained about any transaction</p>

UN (ATM) (Amdt) Bill 2003 ¹	United Kingdom	United States	Australia	New Zealand	Canada	Singapore	UNODC Model Bill ²
	<p>be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.</p> <p>(3) Where a person is convicted of failing to furnish information or produce a document when requested to do so under this article the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.</p>	<p>institutions relevant to the recordkeeping or reporting requirements of this subchapter;</p> <p>(4) summon a financial institution, an officer or employee or a financial institution (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary</p>	<p>to be requested; and</p> <p>(b) a statement of the facts and other grounds on which the Director-General considers it necessary that the warrant should be issued.</p> <p>(3) The Minister may, by writing, consent to the making of the request, but only if the Minister is satisfied :</p> <p>(a) that there are reasonable grounds for</p>	<p>control of one or more property-tracking documents in relation to the offence.</p> <p>(1A) This section applies to a serious offence if it is transnational in nature (as defined in articles 3(2) and 18(1) of the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000) and involves an organised criminal group (as defined in article 2(a) of that convention) (<i>which can</i></p>	<p>consent of the Attorney General was obtained as required by subsection (3); and</p> <p>(a) that there are reasonable grounds to believe that</p> <p>(i) a terrorism offence has been committed, and</p> <p>(ii) information concerning the offence, or information that may reveal the whereabouts of a person suspected by the peace officer of having committed the</p>	<p>may think fit.</p> <p>[penalty: fine not exceeding SG\$50,000 or imprisonment for a term not exceeding 5 years or both.]</p>	<p>conducted by or for that person during such period before or after the order as the Court directs.</p> <p><u>Section 77</u></p> <p>(1) Where there are reasonable grounds to believe that a person has been, is or will be involved in the commission of a serious offence, and a police officer has reasonable grounds for suspecting that any person has possession or control of :</p> <p>(a) a document relevant to identifying,</p>

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	<p>(4) The power conferred by this article to direct any person to produce documents shall include power to take copies of or extracts from any document so produced and to direct that person, or, where that person is a body corporate, any other person who is present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.</p> <p>(5) The furnishing of any information or the production of any document under this article shall not be treated</p>	<p>of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b);</p> <p>(5) exempt from the requirements of this subchapter any class of transactions within any State.</p>	<p>believing that the warrant to be requested will substantially assist the collection of intelligence that is important in relation to a terrorism offence (<i>which includes a terrorist financing offence</i>); and</p> <p>(b) that relying on other methods of collecting that intelligence would be</p>	<p><i>include a terrorist financing offence</i>).</p> <p><u>Section 69</u></p> <p>(1) Where any application is made under section 68 of this Act to a Judge of the High Court for a production order against a person, the Judge may, subject to subsection (4) of this section and to sections 73 and 74 of this Act, make an order that the person –</p> <p>(a) Produce to a member of the Police any specified document or class of</p>	<p>offence, is likely to be obtained as a result of the order; or</p> <p>(b) that</p> <p>(i) there are reasonable grounds to believe that a terrorism offence will be committed;</p> <p>(ii) there are reasonable grounds to believe that a person has direct and material information that relates to a terrorism offence referred to in subparagraph (i), or that may reveal the</p>		<p>locating or quantifying property of the person, or to identifying or locating a document necessary for the transfer of property of such person; or</p> <p>(b) a document relevant to identifying, locating or quantifying tainted property in relation to the offence, or to identifying or locating a document necessary for the transfer of tainted property in relation to the offence,</p>

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	<p>as a breach of any restriction imposed by statute or otherwise.</p> <p>[A person commits an offence if he refuses or fails to comply with any direction, or obstructs any person in the exercise of his powers under this article.</p> <p>Penalty: on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale or to both.</p> <p>A person commits an offence if he furnishes any false information or produces any false document, or with intent to evade the provisions of this</p>	<p>(e) Contumacy or Refusal</p> <p>(1) Referral to attorney general –</p> <p>In case of contumacy by a person issued a summons under paragraph (3) or (4) or subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.</p> <p>(2) Jurisdiction of court –</p> <p>The Attorney General may invoke the aid of any court of the United States within the jurisdiction of</p>	<p>ineffective.</p> <p>(4) If the Minister has consented under subsection (3), the Director-General may request the warrant by giving an issuing authority :</p> <p>(a) a request that is the same as the draft request except for the changes (if any) required by the Minister; and</p> <p>(b) a copy of the Minister's consent.</p>	<p>documents of the kind referred to in section 68(1)(b) of this Act that are in the person's possession or control;</p> <p>(b) Make available to a member of the Police, for inspection, any specified document or class of documents of that kind that are in the person's possession or control -</p> <p>if the Judge is satisfied that there are reasonable grounds for</p>	<p>whereabouts of an individual who the peace officer suspects may commit a terrorism offence referred to in that subparagraph, and</p> <p>(iii) reasonable attempts have been made to obtain the information referred to in subparagraph (ii) from the person referred to in that subparagraph.</p> <p>(5) An order made under subsection (4) may</p> <p>(a) order the</p>		<p>the police officer may apply <i>ex parte</i> and in writing to a judge in chambers for an order against the person suspected of having possession or control of a document of the kind referred.</p> <p>(2) A police officer may apply <i>ex parte</i> and in writing to a judge in chambers for an order against the person suspected of having possession or control of a document relevant to identifying, locating or quantifying</p>

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	<p>article, destroys, mutilates, defaces, secretes or removes any document.</p> <p>Penalty: on conviction on indictment to imprisonment for a term not exceeding 7 years or to a fine or to both; on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both.]</p> <p>Terrorism Act 2000</p> <p><u>Section 32</u></p> <p>In this Act, “terrorist investigation” means an investigation of -</p> <p>(b) an act which appears to have been done for the</p>	<p>which -</p> <p>(A) the investigation which gave rise to the summons is being or has been carried on;</p> <p>(B) the person summoned is an inhabitant; or</p> <p>(C) the person summoned carries on business or may be found,</p> <p>to compel compliance with the summons.</p> <p>(3) Court order -</p> <p>The court may issue an order requiring the person summoned to</p>	<p><u>Section 34D</u></p> <p>(1) An issuing authority may issue a warrant under this section relating to a person, but only if :</p> <p>(a) the Director-General has requested it in accordance with subsection 34C(4); and</p> <p>(b) the issuing authority is satisfied that there are reasonable grounds for believing that the warrant will substantially</p>	<p>making the order.</p> <p>(4) An order under subsection (1)(a) of this section shall not be made in respect of bankers’ books.</p> <p><u>Section 70</u></p> <p>A production order requiring a person to produce or make available any document to a member of the Police –</p> <p>(a) Shall specify when the document is to be produced or made available;</p> <p>(b) May specify -</p> <p>(i) The place where the document is to be produced or</p>	<p>examination, on oath or not, of a person named in the order;</p> <p>(b) order the person to attend at the place fixed by the judge, or by the judge designated under paragraph (d), as the case may be, for the examination and to remain in attendance until excused by the presiding judge;</p> <p>(c) order the person to bring to the</p>		<p>terrorist property or to identifying or locating a document necessary for the transfer of terrorist property, where there are reasonable grounds to believe that the person has possession or control of such a document.</p> <p>(4) The judge may, if he or she considers there are reasonable grounds for so doing, make an order that the person produce to a police office, at a time and place specified in the order, any documents of the kind referred to in</p>

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	<p>purposes of terrorism, (c) the resources of a proscribed organisation, or (e) the commission, preparation or instigation of an offence under this Act (<i>which includes a terrorist financing offence</i>).</p> <p><u>Schedule 6</u> <u>Paragraph 1</u></p> <p>(1) Where an order has been made under this paragraph in relation to a terrorist investigation, a constable named in the order may require a financial institution to provide customer information for the purposes of the</p>	<p>appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.</p> <p>(k) Bank Records Related to Anti-money Laundering Programs</p> <p>(2) 120-hour Rule – Not later than 120 hours after receiving a request by an appropriate Federal banking</p>	<p>y assist the collection of intelligence that is important in relation to a terrorism offence.</p> <p>(2) The warrant must, in the same terms as the draft warrant given to the issuing authority as part of the request, either :</p> <p>(a) require a specified person to appear before a prescribed authority for questioning</p>	<p>made available: (ii) The member of the Police to whom the document is to be produced or made available.</p> <p><u>Section 71(1)</u></p> <p>A member of the Police to whom a document is produced or made available for inspection in accordance with a production order under section 69 of this Act may do one or more of the following:</p> <p>(a) Inspect the document: (b) Take extracts from the document: (c) Make copies of the document:</p>	<p>examination any thing in their possession or control, and produce it to the presiding judge; (d) designate another judge as the judge before whom the examination is to take place; and (e) include any other terms or conditions that the judge considers desirable, including terms or conditions for the protection of the interests</p>		<p>subsection (1) or (2), provided that an order under this subsection may not require the production of bankers books.</p> <p>[penalty: in the case of a natural person, imprisonment for a maximum of X years or a maximum fine of \$X, or both; in the case of a body corporate X times such fine.]</p> <p><u>Section 84</u></p> <p>(1) The Director of Public Prosecutions, or a police officer may, apply, <i>ex parte</i>, and in writing to a judge in chambers for an order (in this section called a</p>

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	<p>investigation.</p> <p>(2) The information shall be provided -</p> <p>(a) in such manner and within such time as the constable may specify, and</p> <p>(b) notwithstanding any restriction on the disclosure of information imposed by statute or otherwise.</p> <p>[penalty: on summary conviction, a fine not exceeding level 5 on the standard scale.]</p> <p><u>Paragraph 2</u></p> <p>An order under paragraph 1 may be made only on the application of -</p>	<p>agency for information related to anti-money laundering compliance by a covered financial institution or a customer of such information, a covered financial institution shall provide to the appropriate Federal banking agency, or make available at a location specified by the representative of the appropriate Federal banking</p>	<p>under the warrant immediately after the person is notified of the issue of the warrant, or at a time specified in the warrant;</p> <p>(b) do both of the following :</p> <p>(i) authorise a specified person to be taken into custody immediately by a police officer, brought before a prescribed authority immediately for</p>	<p>(d) In the case of an order under subsection (1)(a) of that section, retain the document for as long as is reasonably necessary for the purposes of this Act.</p> <p>[penalty: in the case of an individual, imprisonment for a term not exceeding 6 months or a fine not exceeding AU\$5,000; in the case of a body corporate, to a fine not exceeding AU\$20,000.]</p>	<p>of the person named in the order and of third parties or for the protection of any ongoing investigation .</p> <p>(8) A person named in an order made under subsection (4) shall answer questions put to the person by the Attorney General or the Attorney General's agent, and shall produce to the presiding judge things that the person was ordered to bring, but may refuse if answering a question or producing a thing would disclose information that</p>		<p>monitoring order) directing a financial institution to give information to a police officer. An application under this subsection shall be supported by an affidavit.</p> <p>(3) A judge shall not issue a monitoring order unless he or she is satisfied that there are reasonable grounds for suspecting that:</p> <p>(a) the person in respect of whose account the order is sought</p> <p>(i) has committed</p>

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	<p>(a) in England and Wales or Northern Ireland, a police officer of at least the rank of superintendent, or</p> <p>(b) in Scotland, the procurator fiscal.</p> <p><u>Paragraph 3</u></p> <p>An order under paragraph 1 may be made only by -</p> <p>(a) in England and Wales, a Circuit judge,</p> <p>(b) in Scotland, the sheriff, or</p> <p>(c) in Northern Ireland, a county court judge.</p> <p><u>Paragraph 5</u></p> <p>An order under paragraph 1 may be made only if the</p>	<p>agency, information and account documentation for any account opened, maintained, administered or managed in the United States by the covered financial institution.</p> <p>(3) Foreign Bank Records -</p> <p>(A) Summons or Subpoena of Records -</p> <p>In General – The Secretary of the Treasury or the Attorney General may issue a summons or subpoena to any</p>	<p>questioning under the warrant and detained under arrangements made by a police officer for the period (<i>the questioning period</i>) described in subsection (3);</p> <p>(ii) permit the person to contact identified persons at specified times when the person is in custody or detention authorised by the</p>		<p>is protected by any law relating to non-disclosure of information or to privilege.</p> <p>(10) No person shall be excused from answering a question or produce a thing under subsection (8) on the ground that the answer or thing may tend to incriminate the person or subject the person to any proceeding of penalty, but</p> <p>(a) no answer given or thing produced under subsection (8) shall be used or received against the person in any</p>		<p>or was involved in the commission, or is about to commit or be involved in the commission of, a serious offence;</p> <p>(ii) has benefited directly or indirectly, or is about to benefit directly or indirectly from the commission of a serious offence; or</p> <p>(b) the account is relevant to identifying, locating or quantifying</p>

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	<p>person making it is satisfied that -</p> <p>(a) the order is sought for the purposes of a terrorist investigation,</p> <p>(b) the tracing of terrorist property is desirable for the purposes of the investigation, and</p> <p>(c) the order will enhance the effectiveness of the investigation.</p>	<p>foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account, including records maintained outside of the United States relating to the deposit of funds into the foreign bank.</p> <p>(B) Acceptance of service -</p> <p>(i) Maintaining Records in the United States – Any covered financial institution which maintains a</p>	<p>warrant.</p> <p>(3) The questioning period starts when the person is first brought before a prescribed authority under the warrant and ends at the first time one of the following events happens :</p> <p>(a) someone exercising authority under the warrant informs the prescribed authority before whom the person is appearing for questioning</p>		<p>criminal proceedings against that person, other than a prosecution under section 132 or 136;</p> <p>and</p> <p>(b) no evidence derived from the evidence obtained from the person shall be used or received against the person in any criminal proceedings against that person, other than a prosecution under section 132 or 136.</p> <p><u>Section 83.29</u></p> <p>(1) The judge who</p>		<p>terrorist property.</p> <p>[penalty: in the case of a natural person, imprisonment for a maximum of X years or a maximum fine of \$X, or both; in the case of a body corporate X times such fine.]</p>

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		<p>correspondent account in the United States for a foreign bank shall maintain records in the United States identifying the owners of such foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.</p> <p>(ii) Law Enforcement Request –</p>	<p>that the Organisation does not have any further request described in paragraph (5)(a) to make of the person;</p> <p>(b) section 34HB prohibits anyone exercising authority under the warrant from questioning the person under the warrant;</p> <p>(c) the passage of 168 hours starting when the person was</p>		<p>made the order under subsection 83.28(4), or another judge of the same court, may issue a warrant for the arrest of the person named in the order if the arrest of the person named in the order if the judge is satisfied, on an information in writing and under oath, that the person</p> <p>(a) is evading service of the order;</p> <p>(b) is about to abscond; or</p> <p>(c) did not attend the examination, or did not remain in attendance,</p>		

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		<p>Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained under this paragraph, the covered financial institution shall provide the information to the requesting officer not later than 7 days after receipt of the request.</p> <p>[penalty: civil penalty of not more than the greater of the amount (not to exceed US\$100,000)</p>	<p>first brought before a prescribed authority under the warrant.</p> <p>(4) The warrant may identify someone whom the person is permitted to contact by reference to the fact that he or she is a lawyer of the person's choice or has a particular legal or familiar relationship with the person. This does not limit the ways in which the warrant may identify persons whom the person is</p>		<p>as required by the order.</p> <p>(3) A peace officer who arrests a person in the execution of a warrant issued under subsection (1) shall, without delay, bring the person, or cause the person to be brought, before the judge who issued the warrant or another judge of the same court. The judge in question may, to ensure compliance with the order, order that the person be detained in custody or released on recognizance, with or without</p>		

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		<p>involved in the transaction (if any) or US\$25,000. For a violation of section 5318(a), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.</p> <p>A civil money penalty may be imposed with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.</p> <p>Criminal penalty: fine of not more than US\$250,000 or imprisonment for not more than 5 years, or both; if also violating</p>	<p>permitted to contact.</p> <p>(5) Also, the warrant must, in the same terms as the draft warrant given to the issuing authority as part of the request :</p> <p>(a) authorise the Organisation, subject to any restrictions or conditions, to question the person before a prescribed authority by requesting the person to do either or both of the</p>		<p>sureties.</p>		

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		<p>another law of the United States or as part of a pattern of any illegal activity involving more than US\$100,000 in a 12-month period, fine of not more than US\$500,000 or imprisonment for not more than 10 years, or both; for a violation of section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.]</p>	<p>following :</p> <ul style="list-style-type: none"> (i) give information that is or may be relevant to intelligence that is important in relation to a terrorism offence; (ii) produce records or things that are or may be relevant to intelligence that is important in relation to a terrorism offence; <p>and</p> <ul style="list-style-type: none"> (b) authorise the Organisatio 				

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			<p>n, subject to any restrictions or conditions, to make copies and/or transcripts of a record produced by the person before a prescribed authority in response to a request in accordance with the warrant.</p> <p>(6) Also, the warrant must :</p> <p>(a) be signed by the issuing authority who issues</p>				

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			<p>it; and (b) specify the period during which the warrant is to be in force, which must not be more than 28 days.</p> <p>[penalty: imprisonment for 5 years.]</p> <p><u>Section 34N</u></p> <p>(1) In addition to the things that the Organisation is authorised to do that are specified in the warrant, the Organisation is also authorised:</p> <p>(a) to remove</p>				

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			<p>and retain for such time as is reasonable any record or other thing produced before a prescribed authority in response to a request in accordance with the warrant, for the purposes of:</p> <p>(i) inspecting or examining it; and</p> <p>(ii) in the case of a record – making copies or transcripts of it, in accordance</p>				

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			with the warrant.				
Section 12B – order to make material available	<p>Terrorism Act 2000</p> <p><u>Schedule 5</u> <u>Paragraph 5</u></p> <p>(1) A constable may apply to a Circuit Judge for an order under this paragraph for the purposes of a terrorist investigation.</p> <p>(2) An application for an order shall relate to particular material of a particular description, which consists of or include excluded material [i.e. personal records acquired or created in the course of any</p>	<p>Same as above.</p> <p>United States Code, Title 31</p> <p><u>Section 9573(e)</u></p> <p>(1) In general. Notwithstanding subsections (a) and (b), the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent</p>	Same as above.	Same as above.	Same as above.	Same as above.	Same as above.

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	<p>trade, business, profession or other occupation held in confidence, human tissues or tissue fluid for diagnosis or medical treatment held in confidence and journalistic material held in confidence] or special procedure material [i.e. journalistic material other than excluded material and material other than excluded material acquired or created in the course of any trade, business, profession or other occupation held in confidence or subject to obligation of</p>	<p>jurisdiction for an ex parte order requiring the Secretary [of Education] to permit the Attorney General (or his designee) to –</p> <p>(A) collect reports, records, and information (including individually identifiable information) in the possession of the Director that are relevant to an authorized investigation or prosecution of an offence listed in section 2332b(g)(5)(B) <i>(which includes a terrorist financing</i></p>					

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	<p>secrecy].</p> <p>(3) An order under this paragraph may require a specified person –</p> <p>(a) to produce to a constable within a specified period for seizure and retention any material which he has in his possession, custody or power to which the application relates;</p> <p>(b) to give a constable access to any material of the kind mentioned in paragraph (a)</p>	<p><i>offence</i>) of title 18, United States Code, or an act of domestic or international terrorism as defined in section 2331 of that title; and</p> <p>(B) for official purposes related to the investigation or prosecution or an offence described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such information, consistent with</p>					

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	<p>within a specified period;</p> <p>(c) to state to the best of his knowledge and belief the location of material to which the application relates if it is not in, and it will not come into, his possession, custody or power within the period specified under paragraph (a) or (b).</p> <p>(4) For the purposes of this paragraph –</p> <p>(a) an order may specify a person only if</p>	<p>such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.</p>					

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	<p>he appears to the Circuit judge to have in his possession, custody or power any of the material to which the application relates, and</p> <p>(b) a period specified in an order shall be the period of seven days beginning with the date of the order unless it appears to the judge that a different period would be appropriate in the particular circumstances of the application.</p>						

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	<p>(5) Where a Circuit judge makes an order under sub-paragraph (3)(b) in relation to material on any premises, he may, on the application of a constable, order any person who appears to the judge to be entitled to grant entry to the premises to allow any constable to enter the premises to obtain access to the material.</p> <p><u>Paragraph 6</u></p> <p>(1) A Circuit judge may grant an application under paragraph 5 if satisfied –</p> <p>(a) that the material to</p>						

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	<p>which the application relates consists of or includes excluded material or special procedure material,</p> <p>(b) that it does not include item subject to legal privilege, and</p> <p>(c) that the conditions in sub-paragraphs (2) and (3) are satisfied in respect of that material.</p> <p>(2) The first condition is that –</p> <p>(a) the order is sought for the purposes of a terrorist</p>						

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	<p>investigation, and (b) there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.</p> <p>(3) The second condition is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or that access to it should be given having regard -</p>						

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	<p>(a) to the benefit likely to accrue to a terrorist investigation if the material is obtained, and</p> <p>(b) to the circumstances under which the person concerned has any of the material in his possession, custody or power.</p> <p><u>Paragraph 13(1)</u></p> <p>A constable may apply to a Circuit judge for an order under this paragraph requiring any person specified in the order to provide an explanation of any material produced or</p>						

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	<p>made available to a constable under paragraph 5.</p> <p>[A person commits an offence if he makes a false or misleading statement.</p> <p>Penalty: on conviction on indictment, imprisonment for a term not exceeding 2 years, a fine or both; on summary conviction, imprisonment for a term not exceeding 6 months, a fine not exceeding the statutory maximum or both.]</p>						
Section 12C – authority for search	<p>Terrorism Act 2002</p> <p><u>Schedule 5</u> <u>Paragraph 1</u></p> <p>(1) A constable may apply to a justice</p>	<p>Federal Rules of Criminal Procedure</p> <p><u>Rule 41</u></p> <p>(b) Authority to Issue a Warrant</p>	<p>Australian Security Intelligence Organisation Act 1979</p> <p><u>Section 25</u></p>	<p>Proceeds of Crime Act 1991</p> <p><u>Section 30</u></p> <p>(1) Any District Court judge who, on</p>	<p>Criminal Code</p> <p><u>Section 487(1)</u></p> <p>A justice who is satisfied by information on oath</p>	<p>Terrorism (Suppression of Financing) Act 2002</p> <p><u>Section 11</u></p>	<p><u>Section 20</u></p> <p>(1) The FIU, may apply to the Court for a warrant to enter any premises</p>

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	<p>of peace for the issue of a warrant under this paragraph for the purpose of a terrorist investigation.</p> <p>(2) A warrant under this paragraph shall authorize any constable –</p> <p>(a) to enter the premises specified in the warrant,</p> <p>(b) to search the premises and any person found there, and</p> <p>(c) to seize and retain any relevant material which is found on a search under paragraph (b).</p>	<p>At the request of a federal law enforcement officer or an attorney for the government :</p> <p>a magistrate judge – in an investigation of domestic terrorism or international terrorism – having authority in any district in which activities related to the terrorism may have occurred, may issue a warrant for a person or property within or outside that district.</p> <p>(c) Persons or Property Subject to Search or Seizure</p>	<p>Issue of search warrant</p> <p>(1) If the Director-General requests the Minister to do so, and the Minister is satisfied as mentioned in subsection (2), the Minister may issue a warrant in accordance with this section.</p> <p>Test for issue of warrant</p> <p>(2) The Minister is only to issue the warrant if he or she is satisfied that there are reasonable grounds for believing that access by the Organisation to</p>	<p>application in writing made on oath, is satisfied that there are reasonable grounds for believing that there is in or on any place or thing any property that is tainted property in respect of a serious offence (<i>which includes a terrorist financing offence</i>) may issue a search warrant in respect of that tainted property.</p> <p>(2) An application for a warrant under subsection (1) of this section may be made only by a commissioned officer of the Police.</p> <p>(3) A District Court shall not issue a</p>	<p>in Form 1 that there are reasonable grounds to believe that there is in any building, receptacle or place</p> <p>(a) anything on or in respect of which any offence against this Act or any other Act of Parliament has been or is suspected to have been committed,</p> <p>(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence, or will reveal the whereabouts of a person who is believed to have committed an</p>	<p>(1) A Judge may, on an ex parte application by the Attorney General, after examining the application in private and if satisfied that there is in any building, receptacle or place any property in respect of which an order of forfeiture may be made under section 24 (i.e. forfeiture of property owned or controlled by or on behalf of a terrorist group, or property that has been or will be used, in whole or in part, to facilitate or carry out a</p>	<p>belonging to or in the possession or control of a financial institution, cash dealer, or any officer or employee thereof, and to search the premises and remove any document, material or other thing therein for the purposes of the FIU or law enforcement agency, as ordered by the Court and specified in the warrant.</p> <p>(2) The Court shall grant the application if it is satisfied that there are reasonable</p>

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	<p>(3) For the purpose of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that -</p> <p>(a) it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and</p> <p>(b) it must be seized in order to prevent it from being concealed, lost, damaged, altered or destroyed.</p> <p>(4) A warrant under</p>	<p>A warrant may be issued for any of the following :</p> <p>(1) evidence of a crime;</p> <p>(2) contraband, fruits of crime, or other items illegally possessed;</p> <p>(3) property designed for use, intended for use, or used in committing a crime; or</p> <p>(4) a person to be arrested or a person who is unlawfully restrained.</p> <p>(d) Obtaining a Warrant</p> <p>After receiving an affidavit or other information, a</p>	<p>records or other things on particular premises (the subject premises) will substantially assist the collection of intelligence in accordance with this Act in respect of a matter (the security matter) that is important in relation to security.</p> <p>Authorisation in warrant</p> <p>(3) The warrant must be signed by the Minister or must authorise the Organisation to do specified things, subject</p>	<p>warrant under subsection (1) of this section unless the application contains, or the applicant otherwise supplies to the Judge, such information as the Judge requires concerning the grounds on which the warrant is sought.</p> <p>(4) A warrant may be issued under subsection (1) of this section in relation to tainted property whether or not an information has been laid in respect of the relevant serious offence, but where an information has not been laid in respect of that</p>	<p>offence, against this Act or any other Act of Parliament,</p> <p>(c) anything that there are reasonable grounds to believe is intended to be used for the purpose of committing any offence against the person for which a person may be arrested without warrant, or</p> <p>(c.1) any offence-related property,</p> <p>may at any time issue a warrant authorising a peace officer or a public officer who has been appointed or designated to administer or enforce</p>	<p>terrorist activity), issue –</p> <p>(a) if the property is situated in Singapore, a warrant authorising any police officer, or person named in the warrant –</p> <p>(i) to search the building, receptacle or place for that property; and</p> <p>(ii) to seize that property and any other property which that police officer or person believes, on reasonable</p>	<p>grounds to believe that :</p> <p>(a) the financial institution or cash dealer has failed to keep a transaction record, or report a suspicious transaction, as required by this Act;</p> <p>(b) an officer or employee of a financial institution or cash dealer is committing, has committed or is about to commit an offence of money laundering or an offence arising out of</p>

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	<p>this paragraph shall not authorise –</p> <p>(a) the seizure and retention of items subject to legal privilege, or</p> <p>(b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.</p> <p>(5) Subject to paragraph 2, a justice may grant an application under this paragraph if satisfied –</p>	<p>magistrate judge or a judge or a state court of record must issue the warrant if there is probable cause to search for and seize a person or property under Rule 41(c).</p> <p>[A person who willfully prevents, obstructs, impedes, or interferes with a court order shall be fined or imprisoned for not more than one year.</p> <p>Disobedience or resistance to a court order may constitute contempt. The court shall have the power to punish by fine or imprisonment, or both, at its discretion.]</p>	<p>to any restrictions or conditions specified in the warrant, in relation to the subject premises, which must also be specified in the warrant.</p> <p>Things that may be specified</p> <p>(4) The things that may be specified are any of the following that the Minister considers appropriate in the circumstances :</p> <p>(a) entering the subject premises;</p> <p>(b) searching</p>	<p>offence at the time when the application for the warrant is made, the District Court Judge shall not issue a warrant unless the Judge is satisfied that an information has been laid in respect of the offence within 48 hours of the issue of the warrant.</p> <p><u>Section 32</u></p> <p>(1) Subject to any special conditions specified in the warrant pursuant to section 31(3) of this Act, every warrant issued under section 30 of this Act shall authorise the member of the Police executing</p>	<p>a federal or provincial law and whose duties include the enforcement of this Act or any other Act of Parliament and who is named in the warrant</p> <p>(d) to search the building, receptacle or place for any such thing and to seize it, and</p> <p>(e) subject to any other Act of Parliament, to, as soon as practicable, bring the thing seized before, or make a report in respect thereof to , the justice or some other justice for the same territorial division in accordance with</p>	<p>grounds, that an order of forfeiture may be made under that section; or</p> <p>(b) whether the property is situated in or outside Singapore, a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the order.</p> <p>[penalty: fine not exceeding</p>	<p>a contravention of section 6(1) of the Terrorist Financing Act.</p>

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	<p>(a) that the warrant is sought for the purposes of a terrorist investigation,</p> <p>(b) that there are reasonable grounds for believing that there is material on premises specified in the application which is likely to be of substantial value whether by itself or together with other material, to a terrorist investigation and which does not consist of or include excepted</p>		<p>the subject premises for the purposes of finding records or other things relevant to the security matter and, for that purpose, opening any safe, box, drawer, parcel, envelope or other container in which there is reasonable cause to believe that any such records or other things may be found;</p>	<p>the warrant –</p> <p>(a) To enter and search the place or thing specified in the warrant at any time by day or night during the currency of the warrant; and</p> <p>(b) To use such assistants as may be reasonable in the circumstances for the purpose of the entry and search;</p> <p>(c) To use such force as is reasonable in the circumstances for the purpose of effecting entry, and for breaking open</p>	<p>section 489.1.</p> <p><u>Section 487.02</u></p> <p>Where a warrant is issued under this Act, the justice who issues the warrant may order any person to provide assistance, where the person's assistance may reasonably be considered to be required to give effect to the warrant.</p>	<p>SG\$50,000 or imprisonment for a term not exceeding 5 years or both.]</p>	

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	<p>material, and (c) that the issue of a warrant is likely to be necessary in the circumstances of the case.</p> <p>[penalty: imprisonment for a term not exceeding 3 months, a fine not exceeding level 4 on the standard scale or both.]</p> <p><u>Paragraph 11</u></p> <p>(1) A constable may apply to a Circuit judge for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.</p> <p>(2) A warrant under this paragraph</p>		<p>(c) inspecting or otherwise examining any records or other things so found, and making copies or transcripts of any such record or other thing that appears to be relevant to the collection of intelligence by the Organisation in accordance with this Act;</p> <p>(d) removing and retaining</p>	<p>anything in or on the place searched; and</p> <p>(d) To search for and seize any property of the kind described in the warrant that the person executing the warrant believes on reasonable grounds to be tainted property in respect of the relevant serious offence.</p> <p>(2) Every person called upon to assist any member of the Police executing a warrant issued under section 30 of this Act shall have the powers</p>			

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	<p>shall authorise any constable –</p> <p>(a) to enter the premises specified in the warrant,</p> <p>(b) to search the premises and any person found there, and</p> <p>(c) to seize and retain any relevant material which is found on a search under paragraph (b).</p> <p>(3) A warrant under this paragraph shall not authorise –</p> <p>(a) the seizure and retention of items subject to legal</p>		<p>for such time as is reasonable any record or other thing so found, for the purposes of :</p> <p>(i) inspecting or examining it; and</p> <p>(ii) in the case of a record – making copies or transcripts of it, in accordance with the warrant;</p> <p>(e) any thing reasonably necessary to conceal</p>	<p>described in paragraphs (c) and (d) of subsection (1) of this section.</p> <p>(3) If a member of the Police, in the course of executing the warrant issued under section 30 of this Act, finds any property that the member of the Police believes, on reasonable grounds, to be –</p> <p>(a) Tainted property in respect of a serious offence other than an offence specified in the warrant; or</p> <p>(b) Tainted property in relation to any offence</p>			

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	<p>privilege;</p> <p>(b) a constable to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.</p> <p>(4) For the purposes of sub-paragraph (2)(c) material is relevant if the constable has reasonable grounds for believing that it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.</p>		<p>the fact that any thing has been done under the warrant;</p> <p>(f) any other thing reasonably incidental to any of the above.</p> <p>Personal searches may be specified</p> <p>(4A) The Minister may also specify any of the following things if he or she considers it appropriate in the circumstances :</p> <p>(a) conducting an ordinary search or</p>	<p>specified in the warrant, although not of a kind specified in the warrant, -</p> <p>the warrant shall be sufficient authority to seize that property if the member of the Police believes on reasonable grounds that seizure is necessary to prevent the loss, destruction, or concealment of the property.</p>			

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	<p data-bbox="344 316 506 344"><u>Paragraph 12</u></p> <p data-bbox="344 384 611 818">(1) A Circuit judge may grant an application under paragraph 11 if satisfied that an order made under paragraph 5 in relation to material on the premises specified in the application has not been complied.</p> <p data-bbox="344 858 611 1126">(2) A Circuit judge may also grant an application under paragraph 11 if satisfied that there are reasonable grounds for believing that –</p> <p data-bbox="383 1166 611 1327">(a) there is material on premises specified in the application</p>		<p data-bbox="981 316 1122 411">frisk search of a person if :</p> <p data-bbox="947 451 1133 715">(i) the person is at or near the subject premises when the warrant is executed; and</p> <p data-bbox="947 722 1133 1126">(ii) there is reasonable cause to believe that the person has on his or her person records or other things relevant to the security matter;</p> <p data-bbox="936 1166 1133 1327">(b) inspecting or otherwise examining any records or other</p>				

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	<p>which consists of or includes excluded material or special procedure material but does not include items subject to legal privilege, and</p> <p>(b) the conditions in sub-paragraphs (3) and (4) are satisfied</p> <p>(3) The first condition is that –</p> <p>(a) the warrant is sought for the purposes of a terrorist investigation, and</p> <p>(b) the material is likely to be of substantial</p>		<p>things so found, and making copies or transcripts of any such record or other thing that appears to be relevant to the collection of intelligence by the Organisation in accordance with this Act;</p> <p>(c) removing and retaining for such time as is reasonable any record or other thing so</p>				

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	<p>value, whether by itself or together with other material, to a terrorist investigation.</p> <p>(4) The second condition is that it is not appropriate to make an order under paragraph 5 in relation to the material because -</p> <p>(a) it is not practicable to communicate with any person entitled to produce the material,</p> <p>(b) it is not practicable to communicate with any person entitled to grant access to the material or entitled to</p>		<p>found, for the purposes of :</p> <p>(i) inspecting or examining it; and</p> <p>(ii) in the case of a record – making copies or transcripts of it, in accordance with the warrant.</p> <p>Authorisation of entry measures</p> <p>(7) The warrant must:</p> <p>(a) authorise the use of any force that is necessary and reasonable to do the</p>				

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	<p>grant entry to the premises on which the material is situated, or</p> <p>(c) a terrorist investigation may be seriously prejudiced unless a constable can secure immediate access to the material.</p> <p><u>Paragraph 13(1)</u></p> <p>A constable may apply to a Circuit judge for an order under this paragraph requiring any person specified in the order to provide an explanation of any material seized in pursuance of a warrant under paragraph 1 or 11.</p>		<p>things specified in the warrant; and</p> <p>(b) state whether entry is authorised to be made at any time of the day or night or during stated hours.</p> <p><u>Section 27A</u></p> <p>(1) Where:</p> <p>(a) the Director-General gives a notice in writing to the Minister requesting the Minister to issue a warrant under this</p>				

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	<p>[A person commits an offence if he makes a false or misleading statement.</p> <p>Penalty: on conviction on indictment, imprisonment for a term not exceeding 2 years, a fine or both; on summary conviction, imprisonment for a term not exceeding 6 months, a fine not exceeding the statutory maximum or both.]</p>		<p>section in relation to premises, a person, a computer or a thing identified in the notice authorising the Organisation to do acts or things referred to in whichever of subsections 25(4) is or are specified in the notice, and</p> <p>(b) the Minister is satisfied, on the basis of advice received from the relevant Minister,</p>				

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			<p>that the collection of foreign intelligence relating to that matter is important in relation to the defence of the Commonwealth or to the conduct of the Commonwealth's international affairs;</p> <p>the Minister may, by warrant under his or her hand, authorise the Organisation, subject to any conditions or restrictions that are specified in the warrant, to</p>				

UN (ATM) (Amdt) Bill 2003 ¹	United Kingdom	United States	Australia	New Zealand	Canada	Singapore	UNODC Model Bill ²
			<p>do such of those acts or things in relation to those premises, that person, that computer or those things as the Minister considers appropriate in the circumstances and are specified in the warrant for the purpose of obtaining that intelligence.</p> <p>(2) The warrant must:</p> <p>(a) authorise the use of any force that is necessary and reasonable to do the things</p>				

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			<p>mentioned in subsection (1); and</p> <p>(b) state whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night.</p>				
Section 12G – issue of warrant	<p>Same as above.</p> <p>Terrorism Act 2000</p> <p><u>Section 25</u></p> <p>(1) An authorised officer may seize and detain any cash to which this section applies if he has reasonable grounds for</p>	Same as above.	Same as above.	<p>Same as above.</p> <p>Terrorism Suppression Act 2002 (as amended by Terrorism Suppression Amendment Act 2003)</p> <p><u>Section 47A</u></p> <p>(1) A Customs officer</p>	<p>Anti-terrorism Act (amending the Criminal Code)</p> <p><u>Section 83.13</u></p> <p>(1) Where a judge of the Federal Court, on an <i>ex parte</i> application by the Attorney General, after examining the</p>	Same as above.	<p><u>Section 60</u></p> <p>(1) A police officer may :</p> <p>(a) search a person for tainted property or terrorist property;</p> <p>(b) enter upon land or into</p>

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	<p>suspecting that -</p> <p>(a) it is intended to be used for the purposes of terrorism,</p> <p>(b) it forms the whole or part of the resources of a proscribed organisation, or</p> <p>(c) it is terrorist property within the meaning given in section 14(1)(b) or (c) (i.e. proceeds of commission or acts of terrorism, and of acts carried out for the purposes of terrorism).</p> <p>(2) In subsection (1)(b) the reference to an organisation's resources includes</p>			<p>or authorised person may, without warrant, seize and detain goods if -</p> <p>(a) the goods came to his or her attention, or into his or her possession, during a search, inspection, audit, or examination under –</p> <p>(i) the Customs and Excise Act 1996; or</p> <p>(ii) Part 5 of the Financial Transactions Reporting</p>	<p>application in private, is satisfied that there are reasonable grounds to believe that there is in any building, receptacle or place any property in respect of which an order of forfeiture may be made under subsection 83.14(5) (i.e. property owned or controlled by or on behalf of a terrorist group, or property that has been or will be used, in whole or in part, to facilitate or carry out a terrorist activity), the judge may issue</p>		<p>premises and search the land or premises for tainted property or terrorist property; and</p> <p>(c) in either case, seize any property found in the course of the search that the police officer believes, on reasonable grounds, to be tainted property or terrorist property;</p> <p>provided that the search or seizure is made :</p> <p>(d) with the consent of the</p>

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	<p>a reference to any cash which is applied or made available, or is to be applied or made available, for use by the organisation.</p>			<p>Act 1996 (which relates to reporting of imports and exports of cash); and</p> <p>(b) the goods are in New Zealand and he or she is satisfied that they either –</p> <p>(i) are being, or are intended to be, exported from New Zealand;</p> <p>or</p> <p>(ii) are being, or have been, imported into New Zealand;</p>	<p>(b) if the property is situated in Canada, a warrant authorizing a person named therein or a peace officer to search the building, receptacle or place for that property and to seize that property and any other property in respect of which that person or peace officer believes, on reasonable grounds, that an order of forfeiture may be made</p>		<p>person or occupier of the land or premises as the case may be;</p> <p>(e) under warrant issued under section 61; or</p> <p>(f) under section 63.</p> <p><u>Section 61</u></p> <p>(1) Where a police officer has reasonable grounds for suspecting that there is, or may be within the next 72 hours, tainted property or terrorist property of a particular kind :</p> <p>(a) on a person;</p> <p>(b) in the clothing that</p>

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				<p>and</p> <p>(c) he or she has good cause to suspect –</p> <p>(i) that the goods are property of any kind owned or controlled, directly or indirectly, by an entity; and</p> <p>(ii) that the entity is an entity designated under section 20 or section 22 of this Act as a terrorist or associated entity; or</p> <p>(d) he or she has</p>	<p>under that subsection, or</p> <p>(c) if the property is situated in or outside Canada, a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property other than as may be specified in the order.</p>		<p>is being worn by a person;</p> <p>(c) otherwise in a person's immediate control; or</p> <p>(d) upon land or upon or in any premises,</p> <p>the police officer may lay before a magistrate an information [on oath] setting out these grounds and apply for the issue of a warrant to search the person, the land or premises as the case may be, for property of that kind.</p> <p>(2) Where an application is made under subsection (1) for a warrant to</p>

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				<p>good cause to suspect-</p> <p>(i) that the goods are cash or cash equivalent s owned or controlled, directly or indirectly, by an entity; and</p> <p>(ii) that the entity is an entity eligible for designation under section 20 or section 22 of this Act as a terrorist or associated entity.</p>			<p>search a person, land or premises, the magistrate may, subject to subsection (4), issue a warrant authorising a police officer (whether or not named in the warrant) with such assistance and by such force as is necessary and reasonable :</p> <p>(a) to search the person for property of that kind;</p> <p>(b) to enter upon the land or in or upon any premises and to search the land or premises for property of that kind; and</p>

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				<p data-bbox="1135 316 1323 344"><u>Section 47C(1)</u></p> <p data-bbox="1135 384 1406 549">Reasonable force may be used if it is necessary for any of the following purposes:</p> <p data-bbox="1135 588 1357 679">(a) to seize goods under section 47A:</p> <p data-bbox="1135 687 1368 778">(b) to detain goods under section 47A.</p>			<p data-bbox="1966 316 2181 715">(c) to seize property found in the course of the search that the police officer believes on reasonable grounds to be property of that kind.</p> <p data-bbox="1917 754 2181 1321">(3) A magistrate shall not issue a warrant under subsection (2) in respect of tainted property or terrorist property unless the magistrate is satisfied that there are reasonable grounds to believe that a confiscation order may be made under this</p>

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							<p>Act in respect of the property.</p> <p><u>Section 63</u></p> <p>(1) Where a police officer suspects on reasonable grounds that :</p> <p>(a) particular property is tainted property or terrorist property;</p> <p>(b) it is necessary to exercise the power of search and seizure in order to prevent the concealment, loss or destruction of the property; and</p> <p>(c) the</p>

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							<p>circumstances are so urgent that they require immediate exercise of the powers without the authority of a warrant or the order of a court,</p> <p>the police officer may :</p> <ul style="list-style-type: none"> (d) search a person; (e) enter upon land, or upon or into premises and search for the property; and (f) if the property is found, seize the property.

**Overseas anti-terrorist financing legislation -
Freezing of terrorist funds and other property**

	Australia	Canada	New Zealand	United Kingdom	United States
Freezing of terrorist funds and other property	<p>Charter of the United Nations (Terrorism and Dealings with Assets) Regulations 2002 (made under the Charter of United Nations Act 1945)</p> <p><u>Regulation 6(2)</u> The Minister [for Foreign Affairs] may list an asset, or class of asset, if the Minister is satisfied that the asset, or class of asset, is owned or controlled by a person or entity mentioned in paragraph 1(c) of Resolution 1373 [<i>which requires freezing of funds and other financial assets or economic resources of terrorists/terrorist associates</i>].</p> <p><u>Regulation 7</u></p> <p>(1) The Department may give notice of decisions of the Minister to list an asset or class of asset, under section 15</p>	<p>United Nations Suppression of Terrorism Regulations</p> <p><u>Section 4</u></p> <p>No person in Canada and no Canadian outside Canada shall knowingly</p> <p>(a) deal directly or indirectly in any property of a listed person, including funds derived or generated from property owned or controlled directly or indirectly by that person;</p> <p>(b) enter into or facilitate, directly or indirectly, any transaction related to a dealing referred to in paragraph (a);</p> <p>(c) provide any financial or other related service in respect of the property referred to in paragraph (a);</p> <p>(d) make any property or any financial or other related service available, directly or indirectly, for the</p>	<p>Terrorism Suppression Act 2002</p> <p><u>Section 9</u></p> <p>(1) A person commits an offence who, without lawful justification or reasonable excuse, deals with any property knowing that the property is –</p> <p>(a) property owned or controlled, directly or indirectly, by an entity for the time being designated under this Act as a terrorist entity or as an associated entity; or</p> <p>(b) property derived or generated from any property of the kind specified in paragraph (a).</p> <p>(3) Subsection (1) does not apply –</p>	<p>The Terrorism (United Nations Measures) Order 2001 (as amended by The Terrorism (United Nations Measures) Order 2001 (Amendment) Regulations 2003)</p> <p><u>Article 4</u></p> <p>(1) Where the Treasury have reasonable grounds for suspecting that the person by, for or on behalf of whom any funds are held is or may be –</p> <p>(a) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism,</p> <p>(b) a person controlled or owned directly or indirectly by a person in (a),</p> <p>(c) a person acting on behalf, or at the direction of, a person</p>	<p>The President’s Executive Order 13224 of 23 September 2001 (made pursuant to the authority vested in the President by the Constitution, the International Emergency Economic Powers Act, the National Emergencies Act, the United Nations Participation Act and the United States Code)</p> <p>The President’s Executive Order 13224 orders that all property of the foreign persons [<i>who are terrorists and terrorist associates</i>] in the Annex to the Order that is in the United States or that thereafter comes within the United States be blocked and transactions with these persons be prohibited.</p>

	Australia	Canada	New Zealand	United Kingdom	United States
	<p>of the Charter of the United Nations Act 1945 to any person who is engaged in the business of holding, dealing in, or facilitating dealing in, assets.</p> <p>(2) The notice may be given before notice of the listing that is the subject of the decisions is published in the Gazette.</p> <p>Charter of United Nations Act 1945</p> <p><u>Section 16</u></p> <p>(1) The Minister may revoke a listing if the Minister is satisfied that the listing is no longer necessary to give effect to a decision that:</p> <p>(a) the Security</p>	<p>benefit of a listed person.</p> <p><u>Section 5</u></p> <p>All secured or unsecured rights and interests held by a person, other than a listed person or their agent, in the frozen property are entitled to the same ranking as they would have been entitled to had the property not been frozen.</p> <p><u>Section 6</u></p> <p>No person in Canada or no Canadian outside Canada shall knowingly do anything that causes, assists or promotes, or is intended to cause, assist or promote, any activity prohibited by section 4, unless the person has a certificate issued by the Minister under section 11.</p> <p><u>Section 11</u></p> <p>No offence is committed</p>	<p>(a) if the Prime Minister has, under section 11, authorised the dealing with the property; or</p> <p>(b) if the property concerned is the subject of a direction under section 48 and the dealing concerned forms part of the exercise of the Official Assignee of his or her powers under section 50 of the Proceeds of Crime Act 1991 (as modified and applied by section 51(a))</p> <p><u>Section 10</u></p> <p>(1) A person commits an offence who makes available, or causes to be made available, directly or indirectly, without lawful justification or reasonable excuse, any property, or any financial or related</p>	<p>in (a), or</p> <p>(d) a person on the list (of natural and legal persons, groups and entities) in Article 1 of the Council Decision [<i>on specific restrictive measures directed against certain persons and entities with a view to combating terrorism</i>],</p> <p>the Treasury may by notice direct that those funds are not to be made available to any person, except under the authority of a licence granted by the Treasury under this article.</p> <p>(2) A direction given under paragraph (1) shall specify either –</p> <p>(a) the period for which the direction is to have effect; or</p> <p>(b) that the direction is to</p>	

	Australia	Canada	New Zealand	United Kingdom	United States
	<p>Council has made under Chapter VII of the Charter of the United Nations; and</p> <p>(b) Article of the Charter requires Australia to carry out; and</p> <p>(c) relates to terrorism and dealings with assets.</p> <p>(2) The Minister may revoke the listing either at the Minister’s own instigation or on application by the listed person or entity.</p> <p>(3) The listing is revoked by notice in the Gazette.</p> <p>(4) The listing is revoked at the start of the day immediately after the day on which notice is published in the Gazette.</p>	<p>under section 9 (<i>on penalties</i>) for doing any act or thing that may be prohibited by these Regulations or omitting to do any act or thing that may be required by these Regulations if, before that person does or omits to do that act or thing, the Minister issues a certificate to the person stating that the Minister has reasonable grounds to believe that</p> <p>(a) the Security Council of the United Nations Resolution 1373 adopted on September 28, 2001 does not intend that the act or thing be prohibited;</p> <p>(b) the act or thing has been approved by the Security Council of the United Nations or by the Committee of the Security Council established by the Resolution referred to in paragraph (a); or</p>	<p>services, either to, or for the benefit of, an entity, knowing that the entity is an entity for the time being designated under this Act as a terrorist entity or as an associated entity.</p> <p>(4) Subsection (1) does not apply if the Prime Minister has, under section 11, authorised the making available of the property or services.</p> <p><u>Section 11</u></p> <p>(1) The Prime Minister may, by notice in writing, permit any activity or transaction or class or classes of activities of transactions that would otherwise be prohibited by section 9(1) or section 10(1).</p> <p>(2) Any authorisation of that kind –</p>	<p>have effect until it is revoked by notice under paragraph (3).</p> <p>(3) The Treasury may by notice revoke a direction given under paragraph (1) at any time.</p> <p>(4) The expiry or revocation of a direction shall not affect the application of article 3 [<i>on prohibition on making funds available to terrorists/terrorist associates</i>] in respect of the funds in question.</p> <p>(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds in question (“the recipient”), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or for or on whose behalf they are held (“the owner”).</p>	

	Australia	Canada	New Zealand	United Kingdom	United States
	<p><u>Section 20</u></p> <p>(1) A person commits an offence if:</p> <p>(a) the person holds an asset; and</p> <p>(b) the person:</p> <p>(i) uses or deals with the asset; or</p> <p>(ii) allows the asset to be used or dealt with; or</p> <p>(iii) facilitates the use of the asset or dealing with the asset; and</p> <p>(c) the asset is a freezable asset; and</p> <p>(d) the use or dealing is not in accordance with a notice under section 22.</p> <p>(2) Strict liability applies to the circumstance that the use or dealing with the asset is not in</p>	<p>(c) the person named in the certificate is not a listed person.</p> <p>Anti-terrorism Act (amending the Criminal Code)</p> <p><u>Section 83.08</u></p> <p>(1) No person in Canada and no Canadian outside Canada shall knowingly</p> <p>(a) deal directly or indirectly in any property that is owned or controlled by or on behalf of a terrorist group;</p> <p>(b) enter into or facilitate, directly or indirectly, any transaction in respect of property referred to in paragraph (a); or</p> <p>(c) provide any financial or other related services in respect of property referred to in paragraph</p>	<p>(a) may be subject to terms or conditions; and</p> <p>(b) may be amended, revoked, or revoked and replaced.</p> <p>(3) If a person has obtained an authorisation of that kind, another person involved in carrying out the activity or transaction or class or classes of activities or transactions to which the authorisation relates is not subject to section 9(1) or section 10(1).</p> <p>(4) However, subsection (3) does not apply if –</p> <p>(a) the authorisation is subject to terms or conditions imposed under subsection (2)(a); and</p> <p>(b) those terms and conditions are not</p>	<p>(6) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangement for a copy of the notice to be supplied to the owner at the first available opportunity.</p> <p>(7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds are held may apply to the High Court or, in Scotland, to the Court of Session, for the direction to be set aside; and on such application the court may set aside the direction.</p> <p>(8) A person who makes an application under paragraph (7) shall give a copy of the application and</p>	

	Australia	Canada	New Zealand	United Kingdom	United States
	<p>accordance with a notice under section 22.</p> <p>(3) It is a defence if the person proves that the use or dealing was solely for the purpose of preserving the value of the asset.</p> <p>(4) Section 15.1 of the Criminal Code (extended geographical jurisdiction – category A) applies to an offence against subsection (1).</p> <p><u>Section 21</u></p> <p>(1) A person commits an offence if:</p> <p>(a) the person, directly or indirectly, makes an asset available to a person or entity; and</p> <p>(b) the person or entity to whom the asset</p>	<p>(a) to, for the benefit or at the direction of a terrorist group.</p> <p><u>Section 83.09</u></p> <p>(1) The Solicitor General of Canada or a person designated by the Solicitor General may authorize any person in Canada or any Canadian outside Canada to carry out a specified activity or transaction that is prohibited by section 83.08, or a class of such activities or transactions.</p> <p>(2) The Solicitor General or a person designated by the Solicitor General may make the authorization subject to any terms and conditions that are required in their opinion, and may amend, suspend, revoke or reinstate it.</p>	<p>satisfied.</p> <p><u>Section 48</u></p> <p>(1) The Prime Minister may, if satisfied that it is desirable to do so, direct the Official Assignee to take custody and control of property in New Zealand, if an entity is subject to a designation under section 22 [<i>on designation of terrorist entities</i>] and the Prime Minister believes on reasonable grounds that the property is –</p> <p>(a) property owned or controlled, directly or indirectly, by the entity; or</p> <p>(b) property derived or generated from property of the kind referred to in paragraph (a).</p>	<p>any witness statement or affidavit in support to the Treasury (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.</p> <p>(9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.</p> <p>(10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence under this Order.</p> <p>Anti-Terrorism, Crime and Security Act 2001</p> <p><u>Section 4</u></p> <p>(1) The Treasury may make a freezing order if the</p>	

	Australia	Canada	New Zealand	United Kingdom	United States
	<p>is made available is a proscribed person or entity; and</p> <p>(c) the making available of the asset is not in accordance with a notice under section 22.</p> <p>(2) Strict liability applies to the circumstance that the making available of the asset is not in accordance with a notice under section 22.</p> <p>(3) Section 15.1 of the Criminal Code (extended geographical jurisdiction – category A) applies to an offence against subsection (1).</p> <p><u>Section 22</u></p> <p>(1) The owner or holder of a freezable asset may apply in writing to the Minister for permission</p>	<p>(3) All secured and unsecured rights and interests in the frozen property that are held by persons, other than terrorist groups or their agents, are entitled to the same ranking that they would have been entitled to had the property not been frozen.</p> <p>(4) If a person has obtained an authorization under subsection (1), any other person involved in carrying out the activity or transaction, or class of activities or transactions, to which the authorization relates is not subject to section 83.08 if the terms or conditions of the authorization that are imposed under subsection (2), if any, are met.</p>	<p>(2) The direction –</p> <p>(a) must be in writing signed by the Prime Minister; and</p> <p>(b) must specify the property concerned; and</p> <p>(c) may be subject to any terms and conditions the Prime Minister specifies.</p> <p>(3) A person who has custody or control of property specified in the direction must allow the Official Assignee to take custody and control of that property in accordance with the direction.</p> <p><u>Section 49</u></p> <p>(1) Notice of the making of a direction under section 48 must be given –</p>	<p>following two conditions are satisfied.</p> <p>(2) The first condition is that the Treasury reasonably believe that –</p> <p>(a) action to the detriment of the United Kingdom’s economy (or part of it) has been or is likely to be taken by a person or persons, or</p> <p>(b) action constituting a threat to the life or property of one or more nationals of the United Kingdom or residents of the United Kingdom has been or is likely to be taken by a person or persons.</p> <p>(3) If one person is believed to have taken or is likely to take the action the second condition is that the person is –</p>	

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	<p>to use or deal with the asset in a specified way.</p> <p>(2) The owner or holder of an asset may apply in writing to the Minister for permission to make the asset available to a proscribed person or entity specified in the application.</p> <p>(3) The Minister may, by written notice:</p> <p>(a) permit a freezable asset specified in the notice to be used or dealt with in a specified way; or</p> <p>(b) permit an asset specified in the notice to be made available to a proscribed person or entity specified in the notice.</p>		<p>(a) with all reasonable speed to the designated entity concerned, if practicable, where that entity or a representative of it is in New Zealand; and</p> <p>(b) to any other person that the Prime Minister has reason to believe may have an interest in the property concerned.</p> <p>(2) No direction under section 48 is invalid just because notice of the making of it has not been given in the manner required by subsection (1)(a) or (b).</p> <p><u>Section 50</u></p> <p>(1) Having made a direction under section 48, the Prime Minister may –</p>	<p>(a) the government of a country or territory outside the United Kingdom, or</p> <p>(b) a resident of a country or territory outside the United Kingdom.</p> <p>(4) If two or more persons are believed to have taken or to be likely to take the action the second condition is that each of them falls within paragraph (a) or (b) of subsection (3); and different persons may fall within different paragraphs.</p> <p><u>Section 5</u></p> <p>(1) A freezing order is an order which prohibits persons from making funds available to or for the benefit of a person or persons specified in the order.</p>	

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	<p>(3A) The Minister may issue such a notice on his or her own initiative or upon application under subsection (1) or (2).</p> <p>(4) The notice may be subject to conditions.</p> <p>(5) The notice must be given to the owner or holder of the asset as soon as practicable after it is made.</p>		<p>(a) make another direction varying –</p> <p>(i) the property to which the direction relates:</p> <p>(ii) terms and conditions to which the direction is subject:</p> <p>(b) revoke the direction under section 48.</p> <p>(2) The powers given by subsection (1)(a) and (b) are exercisable at any time after the making of the direction, and either on the Prime Minister’s own initiative or on an application for the purpose in writing by or on behalf of the Official Assignee or a person who claims an interest in the property concerned.</p> <p>(3) If not earlier revoked, a direction under section</p>	<p>(2) The order must provide that these are the persons who are prohibited –</p> <p>(a) all persons in the United Kingdom, and</p> <p>(b) all persons elsewhere who are nationals of the United Kingdom or are bodies incorporated under the law of any part of the United Kingdom or are Scottish partnerships.</p> <p>(3) The order may specify the following (and only the following) as the person or persons to whom or for whose benefit funds are not to be made available –</p> <p>(a) the person or persons reasonably believed by the Treasury to have taken or to be likely to take the action referred to in</p>	

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			<p>48 in relation to property of an entity expires -</p> <p>(a) on the entity ceasing to be subject to the designation under section 22; or</p> <p>(b) on a forfeiture order being made under section 55 in relation to the property concerned, in which case section 54 of the Proceeds of Crime Act 1991 (as modified and applied by section 57(c) of this Act) applies.</p> <p><u>Section 51</u></p> <p>The following sections of the Proceeds of Crime Act 1991 apply, with the following (and all other necessary) modifications, to property that is the subject of a direction under section 48, as if that direction were a restraining order and a</p>	<p>section 4;</p> <p>(b) any person the Treasury reasonably believe has provided or is likely to provide assistance (directly or indirectly) to that person or any of those persons.</p> <p>(4) A person may be specified under subsection 3 by –</p> <p>(a) being named in the order, or</p> <p>(b) falling within a description of persons set out in the order.</p> <p>(5) The description must be such that a reasonable person would know whether he fell within it.</p> <p>(6) Funds are financial assets and economic benefits of any kind.</p>	

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			<p>direction under section 42(1) of that Act:</p> <p>(d) section 50 (which relates to powers of the Official Assignee to preserve the property):</p> <p>(e) sections 57 and 58 (which relate to registration of directions, and make it an offence to dispose of or deal with the property in contravention of a direction, knowing that the direction has been made in respect of the property):</p> <p>(f) section 59 (which relates to applications to the High Court for orders that certain dispositions or dealings be set aside, except that the applications must be made by the Attorney-General, not by the Solicitor-General):</p> <p>(g) section 61 (which relates to the Official Assignee's</p>	<p><u>Section 7</u></p> <p>The Treasury must keep a freezing order under review.</p> <p><u>Section 8</u></p> <p>A freezing order ceases to have effect at the end of the period of 2 years starting with the day on which it is made.</p> <p><u>Section 10</u></p> <p>(1) A power to make a freezing order is exercisable by statutory instrument.</p> <p>(2) A freezing order –</p> <p>(a) must be laid before Parliament after being made;</p> <p>(b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a</p>	

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			<p>liability for payment of rates, etc, on the property):</p> <p>(h) section 62 (which relates to an indemnity for the Official Assignee, except that the indemnity must relate only to the exercise or performance, or purported exercise or performance, or omission to exercise or perform, functions, duties, and powers of the Official Assignee under this Act):</p> <p>(i) section 63, except subsection (1)(b)(i) (which section relates to costs recoverable by the Official Assignee and any regulations made under that Act for the purposes of that section apply, with all necessary modifications, accordingly):</p> <p>(j) sections 86 and 87 (which relate to the Official Assignee making and revoking delegations,</p>	<p>resolution of each House of Parliament (but without that affecting anything done under the order or the power to make a new order).</p> <p>(3) The relevant period is a period of 28 days starting with the day on which the order is made.</p> <p>(4) In calculating the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.</p> <p>(5) If the Treasury propose to make a freezing order in the belief that the condition in section 4(2)(b) is satisfied, they must not make the order unless they consult the Secretary of State.</p>	

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			<p>except that the delegations must relate only to functions, duties, and powers of the Official Assignee under this Act).</p> <p><u>Section 52</u></p> <p>(1) A person who claims an interest in specified property that is subject to the prohibition in section 9 (not being property to which subsection (2) applies) may apply to the High Court for an order under section 54.</p> <p>(4) No entity who is the subject of the designation concerned may make an application under this section.</p> <p><u>Section 54</u></p> <p>(1) Subsection (2) applies where –</p>	<p><u>Section 12</u></p> <p>A statutory instrument containing an order revoking a freezing order (without re-enacting it) is subject to annulment in pursuance of a resolution of either House of Parliament.</p> <p><u>Schedule 3, paragraph 7</u></p> <p>(1) A freezing order may include any of the provisions set out in this paragraph.</p> <p>(2) A person commits an offence if he fails to comply with a prohibition imposed by the order.</p> <p>(3) A person commits an offence if he engages in any activity knowing or intending that it will enable or facilitate the commission by another person of an</p>	

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			<p>(a) a person applies to the High Court under section 52(1) in respect of an interest in property; and</p> <p>(b) the Court is satisfied that the applicant's claim to that interest is valid.</p> <p>(2) The Court must, subject to subsection (3), make an order declaring the nature, extent, and value of the applicant's interest in the property and if the application is under section 52(1), declaring that the interest is no longer subject to the prohibition in section 9.</p> <p>(3) The Court may, if it thinks fit, refuse to make an order under subsection (2), because it is satisfied that –</p> <p>(a) the applicant was knowingly involved</p>	<p>offence under a provision included under sub-paragraph (2).</p> <p>(4) A person commits an offence if –</p> <p>(a) he fails without reasonable excuse to provide information, or to produce a document, in response to a requirement made under the order;</p> <p>(b) he provides information, or produces a document, which he knows is false in a material particular in response to such a requirement or with a view to obtaining a licence under the order;</p> <p>(c) he recklessly provides information, or produces a document, which is false in a material particular in response to such a</p>	

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			<p>in any way in the carrying out of the terrorist acts that are the basis of the designation of the entity concerned, or is wholly owned or effectively controlled, directly or indirectly, by that entity; or</p> <p>(b) if the applicant acquired the interest at the time of or after the designation of the entity concerned, the applicant did not acquire the interest in the property in good faith or value, without knowing or having reason to believe that the property was, at the time of the acquisition, property subject to the prohibition in section 9.</p>	<p>requirement or with a view to obtaining a licence under the order;</p> <p>(d) he fails without reasonable excuse to disclose information as required by a provision included under paragraph 6.</p> <p>(5) A person does not commit an offence under a provision included under sub-paragraph (2) or (3) if he proves that he did not know and had no reason to suppose that the person to whom or for whose benefit funds were made available, or were to be made available, was the person (or one of the persons) specified in the freezing order as a person to whom or for whose benefit funds are not to be made available.</p>	

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			(4) However, nothing in subsection (3) requires a refusal to make an order under subsection (2), or limits the circumstances in which the Court may refuse to make an order of that kind.		
Penalties	<p>Charter of United Nations Act 1945</p> <p><u>offence under sections 20(1) and 21(1)</u></p> <p>imprisonment for 5 years.</p>	<p>United Nations Suppression of Terrorism Regulations</p> <p><u>offence under sections 4 and 6</u></p> <ul style="list-style-type: none"> - on summary conviction to the maximum fine of CA\$100,000 or imprisonment for a term not more than one year, or both - on conviction on indictment to the maximum fine of CA\$100,000 or imprisonment for a term not more than 10 years, or both 	<p>Terrorism Suppression Act 2002</p> <p><u>offence under sections 9(1) and 10(1)</u></p> <p>on conviction on indictment to imprisonment for a term not exceeding 7 years.</p>	<p>The Terrorism (United Nations Measures) Order 2001 (as amended by The Terrorism (United Nations Measures) Order 2001 (Amendment) Regulations 2003)</p> <p><u>offence under article 4(9)</u></p> <ul style="list-style-type: none"> - on conviction on indictment to imprisonment for a term not exceeding 7 years or to a fine or to both. - on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both. 	<p>The President's Executive Order 13224 of 23 September 2001</p> <p><u>wilful violation of Executive Order</u></p> <ul style="list-style-type: none"> - fine of not more than US\$50,000. - if a natural person, imprisonment for not more than 10 years, or both a fine and imprisonment. - any officer, director, or agent of any corporation who knowingly participates in such violation, fine, imprisonment, or both.

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		<p>Anti-terrorism Act (amending the Criminal Code)</p> <p><u>offence under section 83.08</u></p> <ul style="list-style-type: none"> - on summary conviction, to a fine of not more than CA\$100,000 or to imprisonment for a term of not more than one year, or to both. - on conviction on indictment, to imprisonment for a term of not more than 10 years. 		<p><u>offence under article 4(10)</u></p> <p>on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or to both.</p> <p>Anti-Terrorism, Crime and Security Act 2001</p> <p><u>offence under Schedule 3, paragraph 7(2) or (3)</u></p> <ul style="list-style-type: none"> - on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both. - on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both. <p><u>offence under Schedule 3, paragraph 7(4)</u></p> <p>on summary conviction to imprisonment for a term not</p>	

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				exceeding 6 months or to a fine not exceeding level 5 on the standard scale or to both.	