

Paper No. CB(2)222/03-04(01)



**Views of the Law Society of Hong Kong on
United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003**

Freezing of Property

1. Clause 5 seeks to amend section 6 to provide for the freezing of non-fund property (in addition to funds as is presently provided for) of terrorists and terrorist organizations. In addition to that amendment, the Administration should also consider reforming section 6. Under section 6 as amended, the Secretary for Security can freeze property if he has reasonable grounds to suspect that it is terrorist property, without having to seek prior court authorization. Given the dire consequences of property being frozen, the test of having "reasonable grounds to suspect" provides an unreasonably low threshold, therefore giving the Secretary for Security powers which are too wide. It is also unreasonable to expect the persons concerned to apply for a licence from the Secretary for Security for the supply of funds to provide for legitimate legal and living expenses.

Disclosure of information to places outside the HKSAR

2. An important principle for the disclosure of information on terrorist activities to and from places outside the HKSAR is that it should be vetted carefully to ensure such information would not be manipulated to achieve political ends. When the proposed section 12(6) (disclosure of general knowledge or suspicion that property is terrorist property etc.) is compared with the proposed section 12D (disclosure of information obtained through the exercise of law enforcement powers), it is observed that different levels of restrictions are provided for in these two sections. For example, under section 12D, the disclosure has to be authorized by the Chief Executive, and transmitted through and with the approval of the Ministry of Foreign Affairs. Such a requirement cannot be found in section 12(6). The Administration should clarify and explain the different disclosure procedures.

Constitutional Affairs Committee

The Law Society of Hong Kong

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