

香港特別行政區政府
保安局



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3 October 2017

Miss Betty Ma
Clerk to Bills Committee on
United Nations (Anti-Terrorism Measures)
(Amendment) Bill 2017
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss Ma,

**Re: First Meeting of the Bills Committee on
United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017**

At the captioned meeting held on 21 July 2017, the Administration was requested to provide supplementary information on some relevant issues. Our reply is set out below.

2. As explained in paragraph 5 of the Legislative Council (LegCo) Brief ([Appendix A](#)), having regard to the United Nations Security Council Resolution (UNSCR) 2178 which affirmed the need to combat threats by foreign terrorist fighters and the Financial Action Task Force (FATF)'s recommendation to enhance the freezing mechanism of terrorist property, the Bill aims to introduce four prohibitions to the United Nations (Anti-Terrorism Measures) Ordinance (UNATMO) (Cap. 575) –

- (a) to prohibit any Hong Kong permanent resident (HKPR) from leaving, or going on board a conveyance with the intent to leave, Hong Kong, or a place outside Hong Kong, for a foreign state for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts, or the provision or receiving of terrorist training (specified purpose);

- (b) to prohibit any person from providing or collecting, directly or indirectly, property, with the intention or knowing that the property will be used, in whole or in part, to finance the travel of individuals between states for specified purpose (whether or not the property is actually so used);
- (c) to prohibit any person from organizing or facilitating, directly or indirectly, the travel of individuals between states with the intention or knowing that the travel is for specified purpose; and
- (d) to prohibit any person, except under the authority of a licence granted by the Secretary for Security, from directly or indirectly dealing with any property, knowing that, or being reckless as to whether the property is –
 - (i) terrorist property specified under section 4 or 5 of UNATMO;
 - (ii) wholly or jointly owned or controlled, directly or indirectly, by a terrorist or terrorist associate specified under section 4 or 5 of UNATMO; or
 - (iii) held by a person on behalf of, or at the direction of, a terrorist or terrorist associate specified under section 4 or 5 of UNATMO.

(A) Why the United Nations (Anti-terrorism Measures)(Amendment) Bill 2017 (the Bill) was directed at terrorist training, as referred to in paragraph 5 of the LegCo Brief, instead of training for terrorist act

3. The Bill targets at, inter alia, the person who leaves or goes on board a conveyance with the intent to leave Hong Kong for “specified purpose”, and the person who finances, organises or facilitates the travel for “specified purpose”. The term “specified purpose” is defined in Clause 6 of the Bill as –

- (a) the perpetration, planning or preparation of, or participation in, one or more terrorist acts (even if no terrorist act actually occurs); or

- (b) the provision or receiving of training that is in connection with the perpetration, planning or preparation of, or participation in, one or more terrorist acts (even if no terrorist act actually occurs as a result of the training).

4. As seen from the above, “specified purpose” covers the training for terrorist act.

(B) Recommendations of FATF in relation to Hong Kong, the consequences of non-compliance, whether Hong Kong had failed to comply with FATF’s recommendations in the past and the sanctions imposed, if any

5. FATF is an inter-governmental body. Its objectives are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF Recommendations were last revised in 2012 and now contain 40 recommendations (**Appendix B**).

6. Hong Kong has been a member of FATF since 1991. In the third round of mutual evaluation (ME) in 2008, Hong Kong was rated partially compliant (PC) / non-compliant (NC) in the following recommendations¹ –

Core recommendations rated PC	R.5, R.10, SR.II
Key recommendations rated PC	R.3, SR.I, SR.III
Other recommendations rated PC	R.6, R.9, R.11, R.17, R.29, R.33, R.34, SR.VI, SR.VII
Other recommendations rated NC	R.12, R.16, R.24, SR.IX

7. In light of the 2008 ME results, Hong Kong was placed on the list of having to be regularly followed up, meaning Hong Kong was required to report back to FATF and provide information on the actions it had taken or was taking to address the deficiencies. In 2012, Hong Kong successfully

¹ There were four levels of rating of compliance with FATF Recommendations: compliant, largely compliant, partially compliant and non-compliant.

applied for removal from the regular follow-up process by demonstrating to FATF that it had taken sufficient actions to have an effective anti-money laundry / counter-financing of terrorism system in force, under which it had implemented the core and key recommendations at a level equivalent to being compliant or largely compliant². Nonetheless, in its follow-up report on the ME of Hong Kong, FATF pointed out that the existing provisions in UNATMO in relation to the freezing of terrorist property were still inadequate, because the freezing process involved several procedural steps which would lead to delays.

8. FATF is now conducting a fourth round of ME for its members, and an onsite visit to Hong Kong by the assessors has been scheduled for the fourth quarter of 2018. If Hong Kong does not enhance the freezing mechanism of terrorist property to address FATF's comments, FATF may give unsatisfactory rating on the relevant recommendation to Hong Kong and put Hong Kong onto the follow-up process again, thereby jeopardising Hong Kong's status and reputation as an international financial centre and a responsible member of the international community.

(C) Extra-territorial application of the Bill if passed

9. The existing section 3 of UNATMO specifies the application of certain provisions outside the Hong Kong Special Administrative Region (HKSAR), as follows –

“Sections 7, 8, 9, 10, 11B and 11F shall apply to –

(a) any person within the HKSAR; and

(b) any person outside the HKSAR who is-

(i) a Hong Kong permanent resident; or

(ii) a body incorporated or constituted under the law of the HKSAR.”

10. Clause 4 of the Bill proposes adding the new prohibitions in paragraphs 2(b), (c) and (d) above to the existing section 3, so that these prohibitions will apply to any person within the HKSAR; and any person

² If satisfactory progress were not achieved by Hong Kong, FATF might issue a formal statement that Hong Kong was insufficiently in compliance with the FATF standards and recommendations. Financial institutions would then be required to apply enhanced due diligence measures to business relations and transactions with Hong Kong. Besides, Hong Kong might be referred to FATF's International Co-operation Review Group for review, and might be publicly identified in FATF's Public Statement.

outside the HKSAR who is a HKPR; or a body incorporated or constituted under the law of HKSAR.

11. As regards the new prohibition in paragraph 2(a) above, it will apply to HKPRs both within and outside the HKSAR as stated in the provision.

12. The extra-territorial application of the Bill, if passed, can be enforced through international cooperation as provided for under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) and the Fugitive Offenders Ordinance (Cap. 503). The suspect can also be arrested when he/she returns to Hong Kong.

(D) Whether an airline company or a travel agency would be held liable under the Bill in case where the company or agency had organized, or made arrangements to facilitate, a customer's travel during the company's or agency's ordinary course of business (such as by selling tickets to its customer and/or making reservations at a hotel for its customer) and only discovered that the customer was leaving Hong Kong for a specified purpose (as provided in the new section 11M(1)) after the ticket was sold to or arrangements were made for the customer; if the answer was in the affirmative, advise on the steps which the airline company or travel agency concerned must take so that it would not be held liable under the Bill in the cases referred above

13. Regarding the offence under new section 11M(1) (i.e. the new prohibition in paragraph 2(c) above), the prosecution has to prove that at the time when the company or agency organized or facilitated, in whole or in part, of the travel, it had the intention or knowledge that the relevant travel will be for specified purpose. The prosecution must base on the facts of the case, and the burden of proof will fall on the prosecution, who has to prove beyond reasonable doubt. Similarly, the court will only convict a person for the offence where it can be proven beyond reasonable doubt that the person has committed the offence. In other words, the thresholds for both prosecution and conviction are very high. A company or an agency will only contravene the new offence if it has the intention or knowledge that the travel will be for a specified purpose and it still organises or facilitates it. The proposal targets the real criminals but not companies or agencies that conduct normal businesses.

(E) Why the proposed new section 11K of UNATMO would apply to HKPRs only

14. The legislative proposals have been prepared by the HKSAR Government in accordance with the purpose of UNSCR 2178 (i.e. countering foreign terrorist fighters) and in response to the actual circumstances of Hong Kong. As reflected by the practices adopted by other jurisdictions, security measures will be customised to suit their own circumstances while ensuring close compliance with relevant requirements.

15. The policy as articulated in the Bill focuses on the preparation prior to travels for the purpose of terrorist acts or training. Offences of financing, organising or facilitating these travels between states as mentioned in the legislative proposals adopt a scope wider than that in UNSCR 2178 for nipping such crimes in the bud.

16. The United Nations did not elaborate on the meaning of “State of nationality” and “State of residence” mentioned in UNSCR 2178. Under the unique circumstances of Hong Kong, it is difficult to adopt these terms in UNATMO as they involve complicated technical issues.

17. Regarding the part involving “nationals” in paragraph 6(a)³ of UNSCR 2178 on prohibition of travels for the purpose of terrorist acts or training, such prohibition will be applicable to HKPRs for clarity and easy understanding. This will facilitate law enforcement.

18. Regarding the part targeting “other individuals” (such as non-HKPRs or visitors) in paragraph 6(a) of UNSCR 2178, the HKSAR Government will stop the entry or transit of such suspected persons as the first line of defence. According to section 4(1)(a) of the Immigration Ordinance (Cap. 115), officers of the Immigration Department (ImmD) may examine any visitor on his landing in Hong Kong. During the examination, ImmD officers will consider whether the visitor meets normal immigration


³ Paragraph 6 of UNSCR 2178 decided that “all States shall ensure that their domestic laws and regulations establish serious criminal offenses sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offense:

- (a) their nationals who travel or attempt to travel to a State other than their States of residence or nationality, and other individuals who travel or attempt to travel from their territories to a State other than their States of residence or nationality, for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training; ...”

requirements. Based on the information so obtained and the visitor's individual circumstances and according to the law and established policies, the ImmD will consider whether or not to allow his entry into Hong Kong.

19. Suspected persons who are physically in Hong Kong and have committed criminal offences will be apprehended by the HKSAR law enforcement agencies. As for those suspected persons who have not committed criminal offences but plan to leave Hong Kong, the HKSAR Government will notify the states of their destination to take appropriate enforcement actions in accordance with established international collaboration mechanisms. If relevant conditions are met, the states to which such suspected persons belong may request Hong Kong for their arrest, transfer, surrender, etc.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Percy Leung', written over a horizontal line.

(Percy Leung)
for Secretary for Security

File reference: SB CR 9/16/1476/74

LEGISLATIVE COUNCIL BRIEF

United Nations (Anti-Terrorism Measures) Ordinance
(Chapter 575)

UNITED NATIONS (ANTI-TERRORISM MEASURES) (AMENDMENT) BILL 2017

INTRODUCTION

At the meeting of the Executive Council on 6 June 2017, the Council ADVISED and the Chief Executive ORDERED that the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017 (the UNATMO Bill), at Annex A, should be introduced into the Legislative Council (LegCo). The purpose of the Bill is to amend the United Nations (Anti-Terrorism Measures) Ordinance (UNATMO) (Cap. 575) to implement certain requirements of the United Nations Security Council Resolution (UNSCR) 2178 and the Financial Action Task Force (FATF)¹'s recommendations.

Annex A

JUSTIFICATIONS

UNSCR 2178

2. In September 2014, the United Nations Security Council passed UNSCR 2178 which is binding on all Member States. The resolution expressed grave concern about the acute and growing threat posed by foreign terrorist fighters, i.e. individuals who travel for the purpose of the

¹ FATF is an intergovernmental organization specializing in recommending standards and best practices in countering money laundering and terrorist financing. FATF conducts ME of its members from time to time to assess their levels of compliance with its recommendations. The last ME in 2008 put Hong Kong on a regular follow-up process. Hong Kong exited from the follow-up process in 2012 after making some improvements to its regime.

perpetration, planning or preparation of, or participation in, terrorist acts or providing or receiving of terrorist training, and urged Member States to implement legal sanctions against such travels and related matters.² In October 2014, the Central People's Government (CPG) gave instructions to Hong Kong to implement the resolution.

FATF's recommendations

3. FATF's Recommendation 5³ requires members to criminalize terrorist financing. Echoing UNSCR 2178, FATF expanded the ambit of Recommendation 5 in 2015 by extending terrorist financing to include financing the travel of foreign terrorist fighters. In its "Guidance on Criminalising Terrorist Financing" endorsed in October 2016, FATF urged members to ensure that these aspects would be criminalized as a matter of urgent priority, given the serious threats posed by foreign terrorist fighters.

4. FATF's Recommendation 6⁴ requires members to freeze without delay the funds or other assets of a person or entity designated as a terrorist

² Operative paragraph 6 of UNSCR 2178 reads as follows –

"...decides that all States shall ensure that their domestic laws and regulations establish serious criminal offenses sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offense-

- (a) their nationals who travel or attempt to travel to a State other than their States of residence or nationality, and other individuals who travel or attempt to travel from their territories to a State other than their States of residence or nationality, for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training;
- (b) the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to finance the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training; and,
- (c) the wilful organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training."

³ According to FATF's Recommendation 5, countries should criminalize terrorist financing on the basis of the Terrorist Financing Convention, and should criminalize not only the financing of terrorist acts but also the financing of terrorist organizations and individual terrorists even in the absence of a link to a specific terrorist act or acts. Countries should ensure that such offences are designated as money laundering predicate offences.

⁴ According to FATF's Recommendation 6, countries should implement targeted financial sanctions regimes to comply with United Nations Security Council resolutions relating to the prevention and

or terrorist associate. In its fourth follow-up report on the Mutual Evaluation (ME) of Hong Kong in 2012, FATF pointed out that section 6⁵ of UNATMO was insufficient. As it stands, section 6 only operates against property specified in the freezing notice, and the freezing process involves several procedural steps which would lead to delays.

Proposals

5. Our key proposals are outlined below—

- (a) to prohibit any Hong Kong permanent resident from leaving, or going on board a conveyance with the intent to leave, Hong Kong, or a place outside Hong Kong, for a foreign state⁶ for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts⁷, or the provision or receiving of terrorist training;

suppression of terrorism and terrorist financing. The resolutions require countries to freeze without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either –

- (a) designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 (1999) and its successor resolutions; or
- (b) designated by that country pursuant to resolution 1373 (2001).

⁵ According to section 6 of UNATMO, where the Secretary for Security has reasonable grounds to suspect that any property held by any person is terrorist property, the Secretary may, by notice in writing specifying the property, direct that a person shall not, directly or indirectly, deal with the property except under the authority of a licence granted by the Secretary.

⁶ According to section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), “foreign state” means a state other than the People's Republic of China (PRC). PRC includes Taiwan, Hong Kong and Macau.

⁷ According to section 2 of UNATMO, “terrorist act” –

- (a) subject to paragraph (b), means the use or threat of action where –
 - (i) the action is carried out with the intention of, or the threat is made with the intention of using action that would have the effect of –
 - (A) causing serious violence against a person;
 - (B) causing serious damage to property;
 - (C) endangering a person's life, other than that of the person committing the action;
 - (D) creating a serious risk to the health or safety of the public or a section of the public;
 - (E) seriously interfering with or seriously disrupting an electronic system; or
 - (F) seriously interfering with or seriously disrupting an essential service, facility or system, whether public or private; and
 - (ii) the use or threat is –
 - (A) intended to compel the Government or an international organization or to intimidate the public or a section of the public; and

- (b) to prohibit any person⁸ from providing or collecting, directly or indirectly, property⁹, with the intention or knowing that the property will be used, in whole or in part, to finance the travel of individuals between states for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts, or the provision or receiving of terrorist training (whether or not the property is actually so used);
- (c) to prohibit any person from organizing or facilitating, directly or indirectly, the travel of individuals between states with the intention or knowing that the travel is for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts, or the provision or receiving of terrorist training; and
- (d) to prohibit any person, except under the authority of a licence granted by the Secretary for Security, from directly or indirectly dealing with¹⁰ any property, knowing that, or being reckless as to whether the property is –
 - (i) terrorist property specified under section 4 or 5 of UNATMO;

(B) made for the purpose of advancing a political, religious or ideological cause;
 (b) in the case of paragraph (a)(i)(D), (E) or (F), does not include the use or threat of action in the course of any advocacy, protest, dissent or industrial action.

⁸The new prohibition on “any person” in paragraph 5 will apply to –

- (a) any person in Hong Kong; and
- (b) any person outside Hong Kong who is a Hong Kong permanent resident or a body incorporated or constituted under the law of Hong Kong.

⁹ According to section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), “property” includes –

- (a) money, goods, choses in action and land; and
- (b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a) above.

¹⁰ According to section 6 of UNATMO, “deal with”, in relation to property, means –

- (a) to receive or acquire the property;
- (b) to conceal or disguise the property (whether by concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it or otherwise);
- (c) to dispose of or convert the property;
- (d) to bring into or remove from Hong Kong the property; or
- (e) to use the property to borrow money, or as security (whether by way of charge, mortgage or pledge or otherwise).

- (ii) wholly or jointly owned or controlled, directly or indirectly, by a terrorist or terrorist associate specified under section 4 or 5 of UNATMO; or
- (iii) held by a person on behalf of, or at the direction of, a terrorist or terrorist associate specified under section 4 or 5 of UNATMO.

6. We have made reference to the practice adopted in other jurisdictions, and we are mindful of the need to strike a reasonable balance between the freedom to travel and the protection of public security. In view of the diversified nature and constantly changing terrorist tactics, we also need to strike a balance between the protection of the right to property on the one hand and the need to effectively sanction terrorist financing on the other. In this amendment exercise, the definitions of “terrorist property”¹¹ and “terrorist act” under section 2 of UNATMO will remain unchanged.

Related amendments

7. In connection with the prohibitions in paragraph 5, we propose the following penalty provisions –

- (a) a person who contravenes the prohibition in paragraph 5(a), (b) or (c) above is liable on conviction on indictment to a fine and to imprisonment for seven years, and on summary conviction to a fine at level 6 (i.e. \$100,000) and to imprisonment for one year; and
- (b) a person who contravenes the prohibition in paragraph 5(d) above is liable on conviction on indictment to a fine and to imprisonment for 14 years, and on summary conviction to a fine at level 6 and to imprisonment for two years.

¹¹ According to section 2 of UNATMO, “terrorist property” means –

- (a) the property of a terrorist or terrorist associate; or
- (b) any other property that –
 - (i) is intended to be used to finance or otherwise assist the commission of a terrorist act; or
 - (ii) was used to finance or otherwise assist the commission of a terrorist act.

8. We also propose to amend three existing ordinances of the law enforcement agencies, namely the Customs and Excise Service, the Immigration Service and the Independent Commission Against Corruption, which are among the authorised bodies in UNATMO, to enforce the proposed offences. The amendments will involve adding UNATMO to Schedule 2 to the Customs and Excise Service Ordinance (Cap. 342), and the new offences in paragraph 7 above to Schedule 2 to the Immigration Service Ordinance (Cap. 331) and section 10 of the Independent Commission Against Corruption Ordinance (Cap. 204)¹².

9. In our proposal, a person who is affected by the proposal or the licence mentioned in paragraph 5(d) may apply to the Court for the licence or a variation of the licence. In this connection, we propose to amend sections 15 and 17 of UNATMO, as well as Order 117A, rule 24 of the Rules of the High Court (Cap. 4 sub. leg. A) to provide for the procedures for such application to the Court.

THE UNATMO BILL

10. The main provisions of the UNATMO Bill are set out below –

- (a) Clause 4 amends section 3 of UNATMO so that the new prohibitions in paragraph 5(b) to (d) above also have extra-territorial effect¹³;
- (b) Clause 5 adds a new section 8A to UNATMO. The new section 8A prohibits any person from dealing with specified terrorist property or property owned or controlled by, held on behalf of or at the direction of a specified terrorist or terrorist associate (see paragraph 5(d) above);
- (c) Clause 6 adds a new Part 3C to UNATMO. The new Part 3C contains the following prohibitions relating to travelling –

¹² According to section 2 of UNATMO, “authorized officer” also includes police officer. As the powers in the Police Force Ordinance (Cap. 232) are already wide-ranging, it is not necessary to amend Cap. 232.

¹³ The new prohibition in paragraph 5(a) above as implemented by the new section 11K will apply to a Hong Kong permanent resident outside Hong Kong as stated in the provision itself.

- (i) the new section 11K prohibits any Hong Kong permanent resident from travelling to a foreign state for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts, or the provision or receiving of terrorist training (specified purpose) (see paragraph 5(a) above);
 - (ii) the new section 11L prohibits any person from providing or collecting any property to finance the travel of a person between states for a specified purpose (see paragraph 5(b) above);
 - (iii) the new section 11M prohibits any person from organizing or facilitating the travel of a person between states for a specified purpose (see paragraph 5(c) above);
- (d) Clause 8 amends section 14 of UNATMO to provide for offences and penalties for the newly added prohibition provisions (see paragraph 7 above);
- (e) Clauses 7, 9 and 10 amend sections 12, 15 and 17 of UNATMO respectively to extend the application of those sections to the new section 8A; and
- (f) Clauses 11, 12, 13 and 14 provide for related amendments to the Rules of the High Court (Cap. 4 sub. leg. A), the Independent Commission Against Corruption Ordinance (Cap. 204), the Immigration Service Ordinance (Cap. 331) and the Customs and Excise Service Ordinance (Cap. 342) respectively (see paragraphs 8 and 9 above).

Annex B The existing provisions being amended are at Annex B.

LEGISLATIVE TIMETABLE

11. The legislative timetable will be –

Publication in the Gazette	16 June 2017
First Reading and commencement of Second Reading debate	28 June 2017
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE UNATMO BILL

12. The proposed legislative amendments are in conformity with the Basic Law, including the provisions concerning human rights. The UNATMO Bill has no economic, productivity, environmental, sustainability, family or gender implications. As for financial or civil service implications, we will seek and justify additional resources requirements that may arise from the implementation of the proposals in accordance with the established resource allocation mechanism. The Bill may also result in some additional work on the Judiciary. In line with the usual funding arrangements between the Government and the Judiciary, the Government should provide the Judiciary with the necessary financial and manpower resources relating to this proposal if such needs arise in the future. The Bill does not affect the current binding effect of UNATMO.

PUBLIC CONSULTATION

13. We briefed the LegCo Panel on Security on 3 January 2017 and received the Panel's general support. We conducted a two-month public consultation exercise from 4 January to 3 March 2017, and briefed the Law Society of Hong Kong on 9 March 2017. Ten written submissions were received and all were generally supportive.

PUBLICITY

14. A LegCo brief and press release will be issued. A spokesperson will be available to respond to media and public enquiries.

BACKGROUND

15. There are a number of Hong Kong laws dealing with terrorism-related offences. Among them, UNATMO was enacted to

implement UNSCR 1373¹⁴ passed after the September 11 terrorist attacks in the United States in 2001, and certain recommendations of FATF on CFT. First enacted in 2002, UNATMO was amended in 2004 and 2012 to further implement UNSCR 1373 and some terrorism-related multilateral conventions, and to meet FATF's evolving CFT standards.

16. It is Government's priority to stay vigilant at all times and to continuously enhance Hong Kong's counter-terrorism capability. It is also Hong Kong's obligation to implement relevant UNSCRs in accordance with CPG's instruction and to comply with FATF's recommendations.

ENQUIRIES

17. For enquiries on this brief, please contact Ms Iris Lee, Principal Assistant Secretary for Security, at 2810 2329.

Security Bureau
June 2017

¹⁴UNSCR 1373 was endorsed on 28 September 2001. It requires, among other things, the prevention and suppression of terrorist financing, criminalization of the wilful provision or collection of funds for terrorist acts, freezing of terrorist assets, and prohibition from making funds, etc. available for the benefit of terrorist or terrorist associate.

**United Nations (Anti-Terrorism Measures)
(Amendment) Bill 2017**

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A BILL

To

Amend the United Nations (Anti-Terrorism Measures) Ordinance to further implement a decision of the Security Council of the United Nations in its Resolution 2178 of 24 September 2014 by prohibiting travelling, providing or collecting property to finance travel, and organizing or facilitating travel, for the purpose of terrorist acts or terrorist training; to further implement the Recommendations of the Financial Action Task Force by prohibiting dealing with property relating to terrorists or terrorist associates; to create offences for contravening the prohibitions; to enable officers from certain disciplinary forces to exercise their existing statutory powers to enforce the prohibitions; and to make related amendments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2017.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendments to United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)

3. Long title amended

The long title—

Repeal

everything after “to implement certain” and before “and to provide”

Substitute

“Recommendations of the Financial Action Task Force; to further implement a decision of the Security Council of the United Nations in its Resolution 2178 of 24 September 2014 relating to the prevention of travel for the purpose of terrorist acts or terrorist training;”.

4. Section 3 amended (application of certain provisions outside HKSAR)

Section 3—

Repeal

“9, 10, 11B and 11F shall”

Substitute

“8A, 9, 10, 11B, 11F, 11L and 11M”.

5. Section 8A added

After section 8—

Add

“8A. Prohibition on dealing with certain property

- (1) A person must not, except under the authority of a licence granted by the Secretary, directly or indirectly, deal with any property knowing that, or being reckless as to whether, the property is—
- (a) terrorist property specified under section 4 or 5;
 - (b) wholly or jointly owned or controlled, directly or indirectly, by a terrorist or terrorist associate specified under section 4 or 5; or
 - (c) held by a person on behalf of, or at the direction of, a terrorist or terrorist associate specified under section 4 or 5.
- (2) In this section—
deal with (處理) has the meaning given by section 6(12).”.

6. Part 3C added

After Part 3B—

Add**“Part 3C****Prohibitions Relating to Travel for Specified Purpose****11J. Interpretation of Part 3C**

In this Part—

specified purpose (指明目的) means—

- (a) the perpetration, planning or preparation of, or participation in, one or more terrorist acts (even if no terrorist act actually occurs); or

- (b) the provision or receiving of training that is in connection with the perpetration, planning or preparation of, or participation in, one or more terrorist acts (even if no terrorist act actually occurs as a result of the training).

11K. Prohibition on travelling for specified purpose

- (1) A Hong Kong permanent resident must not go on board a conveyance with the intention to leave the HKSAR, or a place outside the HKSAR, for a foreign state for a specified purpose.
- (2) A Hong Kong permanent resident must not leave the HKSAR, or a place outside the HKSAR, for a foreign state for a specified purpose.

11L. Prohibition on providing or collecting property to finance travel for specified purpose

A person must not provide or collect, by any means, directly or indirectly, any property—

- (a) with the intention that the property will be used; or
- (b) knowing that the property will be used,

in whole or in part, to finance the travel of any person between states for a specified purpose (whether or not the property is actually so used).

11M. Prohibition on organizing or facilitating travel for specified purpose

- (1) A person must not organize or facilitate, directly or indirectly, the travel of any person between states—
 - (a) with the intention that the travel will be for a specified purpose; or

- (b) knowing that the travel will be for a specified purpose.
- (2) For the purposes of subsection (1), a person organizes or facilitates travel with the relevant intention or knowledge whether or not the travel is—
 - (a) actually organized or facilitated as contemplated by the person; or
 - (b) actually undertaken as contemplated by the person.”.

7. Section 12 amended (disclosure of knowledge or suspicion that property is terrorist property, etc.)

- (1) Section 12(2)—

Repeal

everything after “that contravention”

Substitute

“if the condition specified in subsection (2B)(a) or (b) is satisfied.”.

- (2) After section 12(2)—

Add

“(2A) If a person who has made a disclosure referred to in subsection (1) does any act in contravention of section 8A(1)(b) or (c) (whether before or after the disclosure), and the disclosure relates to that act, the person does not commit an offence under section 14(1A) in respect of that contravention if the condition specified in subsection (2B)(a) or (b) is satisfied.

- (2B) The following conditions are specified for the purposes of subsections (2) and (2A)—

- (a) the disclosure is made before the person does the act and the person does the act with the consent of an authorized officer;
- (b) the disclosure is made—
 - (i) after the person does the act;
 - (ii) on the person’s initiative; and
 - (iii) as soon as it is practicable for the person to make the disclosure.”.

8. Section 14 amended (offences)

- (1) After section 14(1)—

Add

“(1A) A person who contravenes section 8A commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 14 years;
- (b) on summary conviction to a fine at level 6 and to imprisonment for 2 years.”.

- (2) After section 14(4)—

Add

“(4A) A person who contravenes section 11K, 11L or 11M commits an offence and is liable—

- (a) on conviction on indictment to a fine and to imprisonment for 7 years;
- (b) on summary conviction to a fine at level 6 and to imprisonment for 1 year.”.

9. Section 15 amended (supplementary provisions applicable to licences mentioned in section 6(1) or 8)

(1) Section 15, heading—

Repeal

“or 8”

Substitute

“, 8 or 8A”.

(2) Section 15(1), after “6(1)”—

Add

“or 8A”.

10. Section 17 amended (applications to Court of First Instance)

Section 17(4)(a) and (b) and (5)(a)(ii)—

Repeal

“or 8”

Substitute

“, 8 or 8A”.

Part 3**Related Amendments****Division 1—Amendments to Rules of the High Court (Cap. 4 sub. leg. A)****11. Order 117A, rule 24 amended (application concerning direction mentioned in section 6(10) or licence mentioned in section 6(1) or 8)**

(1) Order 117A, rule 24, heading—

Repeal

“or 8”

Substitute

“, 8 or 8A”.

(2) Order 117A, rule 24(1)—

Repeal

“or 8”

Substitute

“, 8 or 8A”.

Division 2—Amendments to Independent Commission Against Corruption Ordinance (Cap. 204)**12. Section 10 amended (power of arrest)**

(1) After section 10(5)(ea)—

Add

“(eb) the offence under section 14(1A) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) of

dealing with certain property in contravention of section 8A of that Ordinance;

- (ec) the offence under section 14(4A) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) of doing certain acts in contravention of section 11K, 11L or 11M of that Ordinance;”.

- (2) Section 10(5)(f) and (g)—

Repeal

“or (ea)”

Substitute

“; (ea), (eb) or (ec)”.

**Division 3—Amendment to Immigration Service Ordinance
(Cap. 331)**

13. Schedule 2 amended (scheduled offences)

Schedule 2, Part I, after item 3—

Add

“4. United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)

section 14(1A) dealing with certain property in contravention of section 8A of that Ordinance

section 14(4A) doing certain acts in contravention of section 11K, 11L or 11M of that Ordinance”.

**Division 4—Amendment to Customs and Excise Service
Ordinance (Cap. 342)**

14. Schedule 2 amended (Ordinances referred to in sections 17 and 17A)

Schedule 2, after item “Chinese Medicine Ordinance (Cap. 549)”—

Add

“United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)”.

Explanatory Memorandum

The main object of this Bill is to amend the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (*Ordinance*) to further implement a decision of the Security Council of the United Nations in its Resolution 2178 of 24 September 2014 by prohibiting travelling, providing or collecting property to finance travel, and organizing or facilitating travel, for the purpose of terrorist acts or terrorist training, and to further implement the Recommendations of the Financial Action Task Force by prohibiting dealing with property relating to terrorists or terrorist associates.

2. The Bill is divided into 3 Parts.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.

Part 2—Amendments to Ordinance

4. Clause 3 amends the long title of the Ordinance.
5. Clause 4 amends section 3 of the Ordinance so that the prohibitions provided in the new sections 8A, 11L and 11M (as mentioned in paragraphs 6 and 7(b) and (c)) also have extra-territorial effect.
6. Clause 5 adds a new section 8A to the Ordinance. The new section 8A prohibits a person from dealing with certain property relating to a terrorist or terrorist associate.
7. Clause 6 adds a new Part 3C to the Ordinance. The new Part 3C contains the following prohibitions relating to travelling—
 - (a) the new section 11K prohibits a Hong Kong permanent resident from travelling to a foreign state for the purpose of terrorist acts or terrorist training (*specified purpose*);

- (b) the new section 11L prohibits providing or collecting any property to finance the travel of a person between states for a specified purpose;
 - (c) the new section 11M prohibits organizing or facilitating the travel of a person between states for a specified purpose.
8. Clause 8 amends section 14 of the Ordinance to provide for offences and penalties for the newly added prohibition provisions.
9. Clauses 7, 9 and 10 amend sections 12, 15 and 17 of the Ordinance respectively to extend the application of those sections to the new section 8A.

Part 3—Related Amendments

10. Clauses 11, 12, 13 and 14 provide for related amendments to the Rules of the High Court (Cap. 4 sub. leg. A), the Independent Commission Against Corruption Ordinance (Cap. 204), the Immigration Service Ordinance (Cap. 331) and the Customs and Excise Service Ordinance (Cap. 342) respectively.

Chapter:	575	United Nations (Anti-Terrorism Measures) Ordinance	Gazette Number	Version Date
		Long title	E.R. 2 of 2012	02/08/2012

An Ordinance to further implement a decision of the Security Council of the United Nations in its Resolution 1373 of 28 September 2001 relating to measures for the prevention of terrorist acts, and in that connection, to permit the implementation of the United Nations International Convention for the Suppression of Terrorist Bombings, the United Nations Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the United Nations Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf; to implement certain of the Special Recommendations on Terrorist Financing of the Financial Action Task Force; and to provide for matters incidental thereto or connected therewith.
(Amended 21 of 2004 s. 2)

[The Ordinance except sections 5, 6, 8, 10, 13, 14(2) and (3), 15, 17 and 18; section 3 in so far as it relates to sections 8 and 10; section 14(1) in so far as it relates to section 8; and section 14(4) in so far as it relates to section 10	} } }	23 August 2002	<i>L.N. 137 of 2002</i>
Section 3 in so far as it relates to section 10; section 10; and section 14(4) in so far as it relates to section 10	}	7 January 2005	<i>L.N. 172 of 2004</i>
Remaining provisions	}	1 January 2011	<i>L.N. 133 of 2010</i>

(Enacting provision omitted—E.R. 2 of 2012)

(Originally 27 of 2002)

(*Format changes—E.R. 2 of 2012)

Note:

* The format of the Ordinance has been updated to the current legislative styles.

Chapter:	575	United Nations (Anti-Terrorism Measures) Ordinance	Gazette Number	Version Date
Section:	3	Application of certain provisions outside HKSAR	E.R. 2 of 2012	02/08/2012

Sections 7, 8, 9, 10, 11B and 11F shall apply to- (Amended 21 of 2004 s. 4)

- (a) any person within the HKSAR; and
- (b) any person outside the HKSAR who is-
 - (i) a Hong Kong permanent resident; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.

Chapter:	575	United Nations (Anti-Terrorism Measures) Ordinance	Gazette Number	Version Date
Section:	12	Disclosure of knowledge or suspicion that property is terrorist property, etc.	E.R. 2 of 2012	02/08/2012

- (1) Where a person knows or suspects that any property is terrorist property, then the person shall disclose to an authorized officer the information or other matter-
- (a) on which the knowledge or suspicion is based; and
 - (b) as soon as is practicable after that information or other matter comes to the person's attention.

- (2) If a person who has made a disclosure referred to in subsection (1) does any act in contravention of section 7 or 8 (whether before or after the disclosure), and the disclosure relates to that act, the person does not commit an offence under section 14(1) in respect of that contravention if-
 - (a) that disclosure is made before the person does that act and the person does that act with the consent of an authorized officer; or
 - (b) that disclosure is made-
 - (i) after the person does that act;
 - (ii) on the person's initiative; and
 - (iii) as soon as it is practicable for the person to make it.
- (3) A disclosure referred to in subsection (1)-
 - (a) shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract or by any enactment, rule of conduct or other provision;
 - (b) shall not render the person who made it liable in damages for any loss arising out of-
 - (i) the disclosure;
 - (ii) any act done or omitted to be done in relation to the property concerned in consequence of the disclosure.
- (4) In the case of a person who was in employment at the relevant time, this section shall have effect in relation to disclosures to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as it has effect in relation to disclosures to an authorized officer.
- (5) Where a person knows or suspects that a disclosure has been made under subsection (1) or (4), the person shall not disclose to another person any information or other matter which is likely to prejudice any investigation which might be conducted following that first-mentioned disclosure.
- (6) Information obtained under or by virtue of a disclosure referred to in subsection (1) may be disclosed-
 - (a) by any authorized officer to the Department of Justice, the Hong Kong Police Force, the Customs and Excise Department, the Immigration Department, and the Independent Commission Against Corruption, for the purpose of preventing and suppressing the financing of terrorist acts; and
 - (b) by any authorized officer to the authorities or persons responsible for investigating or preventing terrorist acts, or handling the disclosure of knowledge or suspicion that any property is terrorist property, of any place outside the HKSAR which the authorized officer thinks fit, for the purpose of preventing and suppressing the financing of terrorist acts. (Replaced 21 of 2004 s. 11)
- (7) Subsection (6) is without prejudice to any other right to disclose information obtained under or by virtue of a disclosure referred to in subsection (1) that may exist apart from subsection (6). (Added 21 of 2004 s. 11)

Chapter:	575	United Nations (Anti-Terrorism Measures) Ordinance	Gazette Number	Version Date
Section:	14	Offences	E.R. 2 of 2012	02/08/2012

- (1) Any person who contravenes section 7, 8 or 9 commits an offence and is liable-
 - (a) on conviction on indictment to a fine and to imprisonment for 14 years;
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) A person who knowingly contravenes a notice under section 6(1) commits an offence and is liable- (Amended 21 of 2004 s. 14)
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years;
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 1 year.
- (3) A person who, without reasonable excuse, contravenes a requirement under section 6(7) commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 3 months.
- (4) A person who contravenes section 10(1) or 11(1) or (2) commits an offence and is liable- (Amended 21 of 2004 s. 14)
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years;
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 1 year.
- (5) A person who contravenes section 12(1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 3 months.
- (6) A person who contravenes section 12(5) commits an offence and is liable-
 - (a) on conviction on indictment to a fine and to imprisonment for 3 years;

- (b) on summary conviction to a fine at level 6 and to imprisonment for 1 year.
- (7) In proceedings against a person for an offence under subsection (6), it is a defence to prove-
- (a) that he did not know or suspect that the disclosure concerned was likely to be prejudicial in the way referred to in section 12(5); or
- (b) that he had lawful authority or reasonable excuse for making that disclosure.
- (7A) Any person who contravenes section 11B(1) or (2) commits an offence and is liable on conviction to imprisonment for life. (Added 21 of 2004 s. 14)
- (7B) Any person who contravenes section 11E(1), (2)(b) or (3) or 11F(1), (2)(b) or (3) commits an offence and is liable-
- (a) on conviction on indictment to a fine and to imprisonment for 14 years;
- (b) on summary conviction to a fine at level 6 and to imprisonment for 2 years. (Added 21 of 2004 s. 14)
- (7C) Any person who contravenes section 11E(2)(a) or 11F(2)(a) commits an offence and is liable on conviction to imprisonment for life. (Added 21 of 2004 s. 14)
- (7D) Any master of a Hong Kong ship who, without reasonable excuse, contravenes section 11H(2), (3) or (4) commits an offence and is liable on conviction to a fine at level 2. (Added 21 of 2004 s. 14)
- (7E) Any person who without reasonable excuse fails to comply with a requirement imposed on him under section 12A commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 1 year. (Added 21 of 2004 s. 14)
- (7F) Any person who, in purported compliance with a requirement under section 12A-
- (a) makes a statement that he knows to be false or misleading in a material particular; or
- (b) recklessly makes a statement that is false or misleading in a material particular, commits an offence and is liable-
- (c) on conviction on indictment to a fine of \$500000 and to imprisonment for 3 years;
- (d) on summary conviction to a fine at level 6 and to imprisonment for 1 year. (Added 21 of 2004 s. 14)
- (7G) Any person who without reasonable excuse fails to comply with an order under section 12B(2) commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 1 year. (Added 21 of 2004 s. 14)
- (7H) Any person who intentionally and without reasonable excuse hinders or obstructs an authorized officer in the execution of a warrant issued under section 12C commits an offence and is liable-
- (a) on conviction on indictment to a fine of \$250000 and to imprisonment for 2 years;
- (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months. (Added 21 of 2004 s. 14)
- (7I) A person who contravenes section 12E(1) commits an offence and is liable-
- (a) on conviction on indictment to a fine and to imprisonment for 7 years;
- (b) on summary conviction to a fine of \$500000 and to imprisonment for 3 years. (Added 21 of 2004 s. 14)
- (7J) Any person who intentionally and without reasonable excuse obstructs any person in the exercise of his powers under a warrant issued under section 12G(1) commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months. (Added 21 of 2004 s. 14)
- (8) Summary proceedings for an offence under this Ordinance, being an offence alleged to have been committed outside the HKSAR, may be commenced at any time not later than 12 months from the date on which the person charged first enters the HKSAR after committing the offence.
- (9) No proceedings for an offence under this Ordinance shall be instituted in the HKSAR except by or with the consent of the Secretary for Justice.

Chapter:	575	United Nations (Anti-Terrorism Measures) Ordinance	Gazette Number	Version Date
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Section:	15	Supplementary provisions applicable to licences mentioned in section 6(1) or 8	E.R. 2 of 2012	02/08/2012
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- (1) Without prejudice to the generality of conditions and exceptions which may be specified in a licence mentioned in section 6(1)-
- (a) such conditions may-
- (i) relate to specifying the manner in which the property to which the licence relates shall be held from time to time;
- (ii) relate to the appointment of a receiver to take possession of the property and to deal with it in a manner which preserves the value of the property or any other property into which it is converted; and

- (iii) require a person holding the property to give possession of the property to a receiver, if any, appointed in respect of the property; and (Replaced 21 of 2004 s. 15)
- (b) such exceptions may relate but are not limited to-
 - (i) the reasonable living expenses;
 - (ii) the reasonable legal expenses; and
 - (iii) the payments liable to be made under the Employment Ordinance (Cap 57), of any person by, for or on behalf of whom the property is held. (Amended 20 of 2012 s. 7)
- (2) Without prejudice to the generality of conditions and exceptions which may be specified in a licence mentioned in section 8, such exceptions may relate to the reasonable living expenses, reasonable legal expenses and the payments liable to be made under the Employment Ordinance (Cap 57) of the person second-mentioned in that section to which the licence relates.

Chapter:	575	United Nations (Anti-Terrorism Measures) Ordinance	Gazette Number	Version Date
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Section:	17	Applications to Court of First Instance	E.R. 2 of 2012	02/08/2012
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- (1) Where-
 - (a) an application under section 5(1) has been made ex parte and in consequence thereof an order under section 5(2) has been published in the Gazette, then-
 - (i) any person specified in the order, or any person acting for or on behalf of the person so specified, may at any time make an application to the Court for the order to be revoked to the extent that it relates to the person so specified;
 - (ii) any person by, for or on behalf of whom any property specified in the order is held, or any other person in respect of whom the Court is satisfied that the person is affected by the order, may at any time make an application to the Court for the order to be revoked to the extent that it relates to the property so specified;
 - (b) a notice has been given under section 6(1), then any person by, for or on behalf of whom any property specified in the notice is held, or any other person in respect of whom the Court is satisfied that the person is affected by the notice, may at any time make an application to the Court for the notice to be revoked to the extent that it relates to the property so specified.
- (2) A person who makes an application under subsection (1) shall give a copy of the application (and an affidavit, if any, and other relevant documents, if any, in support)-
 - (a) to the Secretary for Justice and, in the case of an application under subsection (1)(a)(ii) or (b), to any other person by, for or on behalf of whom the property concerned is held; and
 - (b) not later than 7 days before the date fixed for the hearing of the application or such shorter period as the Court may permit pursuant to rules of court.
- (3) On an application under subsection (1)-
 - (a) in the case of an application under subsection (1)(a)(i) or (ii), the presumption mentioned in section 5(4) shall not be applicable, whether for the purposes of the proceedings or otherwise, immediately upon the initiation of the proceedings and until the conclusion of the proceedings (including the conclusion of any appeal arising out of the proceedings); and
 - (b) the Court shall grant the application unless- (Amended 21 of 2004 s. 21)
 - (i) where subsection (1)(a)(i) is applicable, the Court is satisfied that the person specified in the order concerned under section 5(2) is a terrorist or terrorist associate, as the case may be;
 - (ii) where subsection (1)(a)(ii) is applicable, the Court is satisfied that the property specified in the order concerned under section 5(2) is terrorist property;
 - (iii) where subsection (1)(b) is applicable, the Court is satisfied that there are reasonable grounds to suspect that the property specified in the notice concerned under section 6(1) is terrorist property.
- (4) An application for-
 - (aa) the revocation or variation of a direction mentioned in section 6(10) may be made by any person affected by the notice under section 6(1) in which the direction appears; (Added 21 of 2004 s. 16)
 - (a) the grant of a licence mentioned in section 6(1) or 8 may be made by any person affected by the operation of that section; or
 - (b) the variation of a licence mentioned in section 6(1) or 8 may be made by any person affected by the licence.

- (5) A person who makes an application under subsection (4) shall give a copy of the application (and affidavit, if any, and other relevant documents, if any, in support)-
- (a) to the Secretary for Justice and to any other person affected by-
 - (i) the notice under section 6(1) concerned;
 - (ii) the operation concerned of section 6(1) or 8; or
 - (iii) the licence concerned,
 as the case may be; and (Replaced 21 of 2004 s. 16)
 - (b) not later than 7 days before the date fixed for the hearing of the application or such shorter period as the Court may permit pursuant to rules of court.
- (6) The Court shall not grant an application under subsection (4) unless it is satisfied that it is reasonable in all the circumstances of the case to do so.
- (7) Where-
- (a) proceedings relating to an application under subsection (4)(including proceedings relating to any appeal) are no longer pending; and
 - (b) either-
 - (i) the direction to which the application relates-
 - (A) is, or is still, required to be revoked; or
 - (B) is, or is still, required to be varied; or
 - (ii) the licence to which the application relates-
 - (A) is, or is still, required to be granted; or
 - (B) is, or is still, required to be varied,
 as the case may be, (Replaced 21 of 2004 s. 16)
 then the Secretary shall, as soon as is practicable, cause the direction to be revoked or varied, or the licence to be granted or varied, as the case may be, accordingly.

(Amended 21 of 2004 ss. 16 & 21)

Chapter:	4A	THE RULES OF THE HIGH COURT	Gazette Number	Version Date
Order:	117A	(HK) United Nations (Anti-Terrorism Measures) Ordinance (Cap 575)	E.R. 2 of 2012	02/08/2012

1. Interpretation (O. 117A, r. 1)

(1) In this Order—

ex parte originating summons (單方面原訴傳票) means an originating summons in Form No. 11 in Appendix A;

expedited originating summons (速辦原訴傳票) means an originating summons in Form No. 10 in Appendix A;

holder (持有人), in relation to any subject property, means a person whom the applicant can reasonably ascertain to be a person by, for or on behalf of whom the property is held;

the Ordinance (《條例》) means the United Nations (Anti-Terrorism Measures) Ordinance (Cap 575);

subject person (標的人士), in relation to an application under section 5(1)(a), means the person who is the subject of the application;

subject property (標的財產), in relation to an application under section 5(1)(b) or 13, means the property that is the subject of the application.

(2) An expression used in this Order that is used in the Ordinance has the same meaning in this Order as in the Ordinance.

(3) A section referred to by number in this Order means the section so numbered in the Ordinance.

(4) For the purposes of the Ordinance (under which a person who has a prescribed interest in any property is deemed to be a person by, for or on behalf of whom the property is or was held), *prescribed interest* (訂明權益), in relation to any property, means—

- (a) a legal or equitable estate or interest in the property; or
- (b) a right, power or privilege in connection with the property.

2. Judge to exercise jurisdiction (O. 117A, r. 2)

The jurisdiction of the Court under the Ordinance must, for the purposes of this Order, be exercised by a judge of the Court.

3. Ex parte application to specify person as terrorist or terrorist associate (O. 117A, r. 3)

- (1) An application under section 5(1)(a) for an order to specify a person as a terrorist or terrorist associate may be made ex parte if—
 - (a) there exist circumstances of urgency; or
 - (b) the whereabouts of the subject person are not known to the applicant, and—
 - (i) the applicant has taken reasonable steps to ascertain the whereabouts of the subject person; and
 - (ii) a notice of the applicant's intention to make the application, addressed to the subject person, has been published in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong.
- (2) The ex parte application must be made by an ex parte originating summons supported by an affidavit.
- (3) The affidavit in support must state the grounds for believing that—
 - (a) this rule applies; and
 - (b) the subject person is a terrorist or terrorist associate.
- (4) As soon as practicable after obtaining an order under section 5(2) on an ex parte application, the applicant must—
 - (a) publish the order in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong; and
 - (b) if the whereabouts of the subject person are known or have become known to the applicant, serve the order, the ex parte originating summons and a copy of the affidavit in support on the subject person.

4. Inter partes application to specify person as terrorist or terrorist associate (O. 117A, r. 4)

- (1) This rule applies if an application under section 5(1)(a) is made other than in the circumstances referred to in rule 3(1)(a) and (b).
- (2) The application must be made by an expedited originating summons supported by an affidavit.
- (3) The affidavit in support must state the grounds for believing that the subject person is a terrorist or terrorist associate.
- (4) The expedited originating summons and a copy of the affidavit in support must be served on the subject person not less than 7 clear days before the date fixed for the hearing of the application.
- (5) If a subject person served with the expedited originating summons wishes to adduce any affidavit evidence in opposition to it, the person must, within 28 days after the service, file an affidavit of evidence with the Court and serve a copy of the affidavit on the Secretary for Justice.

5. Additional affidavit procedure for application under section 5(1)(a) (O. 117A, r. 5)

- (1) This rule applies if, after the application referred to in rule 4 is made, the applicant cannot serve the expedited originating summons on the subject person because the whereabouts of the subject person have become unknown to the applicant.
- (2) The applicant may file with the Court an additional affidavit that complies with paragraph (3) if the applicant—
 - (a) has taken reasonable steps to ascertain the whereabouts of the subject person; and
 - (b) has published a notice of the applicant's intention to proceed with the application, addressed to the subject person, in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong.
- (3) The additional affidavit referred to in paragraph (2) must—
 - (a) state that the applicant believes that this rule applies; and
 - (b) state the facts showing that the applicant has done the acts referred to in paragraph (2)(a) and (b).
- (4) The Court may direct that the application be heard in the absence of the subject person, if the Court—

- (a) is satisfied that—
 - (i) this rule applies; and
 - (ii) the applicant has done the acts referred to in paragraph (2)(a) and (b); and
 - (b) having regard to the nature and circumstances of the application, thinks it just and expedient so to do.
- (5) As soon as practicable after obtaining an order under section 5(2) on an application to which this rule applies, the applicant must—
- (a) publish the order in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong; and
 - (b) if the whereabouts of the subject person have become known to the applicant, serve the order, the expedited originating summons, a copy of the affidavit in support and a copy of the additional affidavit on the subject person.

6. Ex parte application to specify property as terrorist property (O. 117A, r. 6)

- (1) An application under section 5(1)(b) for an order to specify any property as terrorist property may be made ex parte if—
 - (a) there exist circumstances of urgency; or
 - (b) the whereabouts of the holder are not known to the applicant, or if there is more than one holder, the whereabouts of none of them are known to the applicant, and—
 - (i) the applicant has taken reasonable steps to ascertain the whereabouts of that holder or those holders; and
 - (ii) a notice of the applicant's intention to make the application, addressed to that holder or those holders, has been published in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong.
- (2) The ex parte application must be made by an ex parte originating summons supported by an affidavit.
- (3) The affidavit in support must—
 - (a) state the grounds for believing that—
 - (i) this rule applies; and
 - (ii) the subject property is terrorist property; and
 - (b) specify the holder, or if there is more than one holder, specify all the holders.
- (4) As soon as practicable after obtaining an order under section 5(2) on an ex parte application, the applicant must—
 - (a) publish the order in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong; and
 - (b) if the whereabouts of the holder or holders specified in the affidavit in support are known or have become known to the applicant, serve the order, the ex parte originating summons and a copy of the affidavit in support on that holder or each of those holders.

7. Inter partes application to specify property as terrorist property (O. 117A, r. 7)

- (1) This rule applies if an application under section 5(1)(b) is made other than in the circumstances referred to in rule 6(1)(a) and (b).
- (2) The application must be made by an expedited originating summons supported by an affidavit.
- (3) The affidavit in support must—
 - (a) state the grounds for believing that the subject property is terrorist property; and
 - (b) specify the holder, or if there is more than one holder, specify all the holders, and their whereabouts (if known to the applicant).
- (4) The expedited originating summons and a copy of the affidavit in support must be served on the holder, or each holder specified in the affidavit whose whereabouts are known to the applicant, not less than 7 clear days before the date fixed for the hearing of the application.
- (5) If a person served with the expedited originating summons wishes to adduce any affidavit evidence in opposition to it, the person must, within 28 days after the service, file an affidavit of evidence with the Court and serve a copy of the affidavit—
 - (a) on the Secretary for Justice; and
 - (b) on any other holder specified in the affidavit in support whose whereabouts are known to the applicant.

- (6) The person who files an affidavit of evidence under paragraph (5) may also serve a copy of the affidavit on any other person whom that person believes to be a person by, for or on behalf of whom the subject property is held.
- (7) The service under paragraph (6) must be effected within the period referred to in paragraph (5).

8. Additional affidavit procedure for application under section 5(1)(b) (O. 117A, r. 8)

- (1) This rule applies if—
 - (a) in the application referred to in rule 7, there is more than one holder and the whereabouts of one or more (but not all) of the holders are not known to the applicant at the time the application is made; or
 - (b) after the application referred to in rule 7 is made, the applicant cannot serve the expedited originating summons on the holder, or if there is more than one holder, on one or more of them, because the whereabouts of that holder or those holders have become unknown to the applicant.
- (2) The applicant may file with the Court an additional affidavit that complies with paragraph (3) if the applicant—
 - (a) has taken reasonable steps to ascertain the whereabouts of the holder or holders that are not known or have become unknown; and
 - (b) has published a notice of the applicant's intention to make or proceed with the application, addressed to the holder or holders whose whereabouts are not known or have become unknown, in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong.
- (3) The additional affidavit referred to in paragraph (2) must—
 - (a) state that the applicant believes that this rule applies; and
 - (b) state the facts showing that the applicant has done the acts referred to in paragraph (2)(a) and (b).
- (4) The applicant must, within 7 days after filing the additional affidavit, serve a copy of the additional affidavit on each holder whose whereabouts are known to the applicant (if any).
- (5) The Court may direct that the application be heard in the absence of a holder whose whereabouts are not known or have become unknown to the applicant, if the Court—
 - (a) is satisfied that—
 - (i) this rule applies; and
 - (ii) the applicant has done the acts referred to in paragraph (2)(a) and (b); and
 - (b) having regard to the nature and circumstances of the application, thinks it just and expedient so to do.
- (6) As soon as practicable after obtaining an order under section 5(2) on an application to which this rule applies, the applicant must—
 - (a) publish the order in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong; and
 - (b) if the whereabouts of the holder or holders in whose absence the application was heard have become known to the applicant, serve the order, the expedited originating summons, a copy of the affidavit in support and a copy of the additional affidavit on that holder or each of those holders.

9. Ex parte application for forfeiture of certain terrorist property (O. 117A, r. 9)

- (1) An application under section 13 for an order to forfeit any terrorist property may be made ex parte if—
 - (a) there exist circumstances of urgency; or
 - (b) the whereabouts of the holder are not known to the applicant, or if there is more than one holder, the whereabouts of none of them are known to the applicant, and—
 - (i) the applicant has taken reasonable steps to ascertain the whereabouts of that holder or those holders; and
 - (ii) a notice of the applicant's intention to make the application, addressed to that holder or those holders, has been published in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong.
- (2) The ex parte application must be made—
 - (a) if in the Court there are existing proceedings conducted under the Ordinance in respect of the subject property, by a summons supported by an affidavit that complies with rule 11; or
 - (b) if there are no such proceedings, by an ex parte originating summons supported by an affidavit that complies with rule 11.

- (3) As soon as practicable after obtaining an order under section 13 on an ex parte application, the applicant must—
 - (a) publish the order in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong; and
 - (b) if the whereabouts of the holder or holders specified in the affidavit in support are known or have become known to the applicant, serve the order, the summons or ex parte originating summons (as the case may be) and a copy of the affidavit in support on that holder or each of those holders.

10. Inter partes application for forfeiture of certain terrorist property (O. 117A, r. 10)

- (1) This rule applies if an application under section 13 is made other than in the circumstances referred to in rule 9(1)(a) and (b).
- (2) The application must be made—
 - (a) if in the Court there are existing proceedings conducted under the Ordinance in respect of the subject property, by a summons supported by an affidavit that complies with rule 11; or
 - (b) if there are no such proceedings, by an expedited originating summons supported by an affidavit that complies with rule 11.
- (3) The summons or expedited originating summons, and a copy of the affidavit in support, must be served on the holder, or each holder specified in the affidavit whose whereabouts are known to the applicant, not less than 14 clear days before the date fixed for the hearing of the application.
- (4) If a person served with the summons or expedited originating summons wishes to adduce any affidavit evidence in opposition to it, the person must, within 28 days after the service, file an affidavit of evidence with the Court and serve a copy of the affidavit—
 - (a) on the Secretary for Justice; and
 - (b) on any other holder specified in the affidavit in support whose whereabouts are known to the applicant.
- (5) The person who files an affidavit of evidence under paragraph (4) may also serve a copy of the affidavit on any other person whom that person believes to be a person by, for or on behalf of whom the subject property is held.
- (6) The service under paragraph (5) must be effected within the period referred to in paragraph (4).

11. Contents of affidavit in support for application under section 13 (O. 117A, r. 11)

- (1) The affidavit in support referred to in rule 9(2) must state the grounds for believing that rule 9 applies.
- (2) The affidavit in support referred to in rules 9(2) and 10(2) must state the grounds—
 - (a) for believing that the subject property is terrorist property referred to in paragraph (a) of the definition of *terrorist property* in section 2(1) and for believing that it also—
 - (i) in whole or in part, directly or indirectly, represents any proceeds arising from a terrorist act;
 - (ii) is intended to be used to finance or otherwise assist the commission of a terrorist act; or
 - (iii) was used to finance or otherwise assist the commission of a terrorist act; or
 - (b) for believing that the subject property is terrorist property referred to in paragraph (b) of that definition.
- (3) The affidavit in support referred to in rules 9(2) and 10(2) must also specify the holder, or if there is more than one holder, specify all the holders, and their whereabouts (if known to the applicant).

12. Additional affidavit procedure for application under section 13 (O. 117A, r. 12)

- (1) This rule applies if—
 - (a) in the application referred to in rule 10, there is more than one holder and the whereabouts of one or more (but not all) of the holders are not known to the applicant at the time the application is made; or
 - (b) after the application referred to in rule 10 is made, the applicant cannot serve the summons or expedited originating summons on the holder, or if there is more than one holder, on one or more of them, because the whereabouts of that holder or those holders have become unknown to the applicant.
- (2) The applicant may file with the Court an additional affidavit that complies with paragraph (3) if the applicant—
 - (a) has taken reasonable steps to ascertain the whereabouts of the holder or holders that are not known or

- have become unknown; and
 - (b) has published a notice of the applicant's intention to make or proceed with the application, addressed to the holder or holders whose whereabouts are not known or have become unknown, in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong.
- (3) The additional affidavit referred to in paragraph (2) must—
 - (a) state that the applicant believes that this rule applies; and
 - (b) state the facts showing that the applicant has done the acts referred to in paragraph (2)(a) and (b).
- (4) The applicant must, within 7 days after filing the additional affidavit, serve a copy of the additional affidavit on each holder whose whereabouts are known to the applicant (if any).
- (5) The Court may direct that the application be heard in the absence of a holder whose whereabouts are not known or have become unknown to the applicant, if the Court—
 - (a) is satisfied that—
 - (i) this rule applies; and
 - (ii) the applicant has done the acts referred to in paragraph (2)(a) and (b); and
 - (b) having regard to the nature and circumstances of the application, thinks it just and expedient so to do.
- (6) As soon as practicable after obtaining an order under section 13 on an application to which this rule applies, the applicant must—
 - (a) publish the order in a Chinese newspaper and an English newspaper that circulate generally in Hong Kong; and
 - (b) if the whereabouts of the holder or holders in whose absence the application was heard have become known to the applicant, serve the order, the summons or expedited originating summons (as the case may be), a copy of the affidavit in support and a copy of the additional affidavit on that holder or each of those holders.

13. Revocation of order specifying person as terrorist or terrorist associate or specifying property as terrorist property (O. 117A, r. 13)

- (1) An application under section 5(5) to revoke, in whole or in part, an order under section 5(2) may be made ex parte.
- (2) The ex parte application must be made by a summons supported by an affidavit.
- (3) The affidavit in support must state the circumstances that have caused the applicant to have reasonable grounds to believe that the person who or the property that is the subject of the application is not, or is no longer, a terrorist, terrorist associate or terrorist property (as the case may be).

14. Application under section 12A, 12B, 12C or 12G (O. 117A, r. 14)

- (1) This rule applies to an application for—
 - (a) an order under section 12A(1);
 - (b) an order under section 12B(1);
 - (c) a warrant under section 12C(1); or
 - (d) a warrant under section 12G(1).
- (2) An application to which this rule applies must be made by laying an information on oath.
- (3) The application may, if a judge so directs, be heard at a place other than within the court premises.
- (4) At the hearing of the application, the Court may receive evidence from the applicant.

15. Revocation or variation of order made under section 12A or 12B (O. 117A, r. 15)

- (1) An application under—
 - (a) section 12A(13) for the revocation or variation of an order under section 12A(2); or
 - (b) section 12B(8) for the revocation or variation of an order under section 12B(2) or (7),
 must be made to a judge by a summons supported by an affidavit.
- (2) The summons and affidavit in support must state the grounds on which the applicant seeks the revocation or variation of the order.
- (3) The summons and a copy of the affidavit in support must be served on the Secretary for Justice not less than 3 clear days before the date fixed for the hearing of the application.

(4) At the hearing of the application, the Court may revoke the order or make such variation as it thinks fit.

16. Claim of legal privilege in relation to order under section 12A or 12B (O. 117A, r. 16)

- (1) If, in the course of the exercise of powers conferred by an order under section 12A to require a person to answer questions or otherwise furnish information, a claim of legal privilege is made in respect of any information, the person making the claim must—
 - (a) within 3 days of making the claim, apply to the Court by a summons supported by an affidavit for a declaration that the information is an item subject to legal privilege; and
 - (b) not less than 3 clear days before the date fixed for the hearing of the application, serve the summons and a copy of the affidavit in support on the Secretary for Justice.
- (2) If, in the course of the exercise of powers conferred by an order under section 12A or 12B to require a person to produce material or to give an authorized officer access to it, a claim of legal privilege is made in respect of any material, the person making the claim must—
 - (a) in the presence of an authorized officer, secure the material in a sealed container;
 - (b) immediately deposit the sealed container with the Court;
 - (c) within 3 days of depositing the material with the Court, apply to the Court by a summons supported by an affidavit for a declaration that the material is an item subject to legal privilege; and
 - (d) not less than 3 clear days before the date fixed for the hearing of the application, serve the summons and a copy of the affidavit in support on the Secretary for Justice.

17. Claim of legal privilege in relation to warrant under section 12C or 12G (O. 117A, r. 17)

If, in the course of the execution by an authorized officer of a warrant issued under section 12C or 12G, a claim of legal privilege is made in respect of any thing, the person making the claim must—

- (a) in the presence of the authorized officer, secure the thing in a sealed container and hand the sealed container to the authorized officer for safe keeping pending an application by the person under this rule;
- (b) within 3 days of making the claim, apply to the Court by a summons supported by an affidavit for a declaration that the thing is an item subject to legal privilege; and
- (c) not less than 3 clear days before the date fixed for the hearing of the application, serve the summons and a copy of the affidavit in support on the authorized officer and the Secretary for Justice.

18. Application to be heard in camera (O. 117A, r. 18)

- (1) An application under section 12A, 12B, 12C or 12G must be heard in camera.
- (2) The information and all other documents relating to the application must be treated as confidential and must, immediately on the determination of the application, be placed in a packet and sealed by order of the judge by whom the application was heard.
- (3) The packet must be kept in the custody of the Court in a place to which the public has no access or in such other place as the judge may authorize and—
 - (a) must not be opened nor must its contents be removed except by order of a judge; and
 - (b) must not be destroyed except pursuant to an order of the Court.

19. Application for continued detention of seized property under section 12H(2) (O. 117A, r. 19)

- (1) An application under section 12H(2) for an order to authorize the continued detention of seized property must be made by an ex parte originating summons supported by an affidavit.
- (2) The affidavit in support must—
 - (a) state what the seized property consists of (including, for money, the amount and currency of the money) and the date on which and the place at which it was seized;
 - (b) state the grounds for suspecting that the seized property is terrorist property; and
 - (c) give particulars, in terms of the matters referred to in section 12H(2)(b), as to why the continued detention of the seized property is justified.
- (3) If an order is made under section 12H(2) in respect of any seized property, the applicant for the order must,

as soon as practicable, serve the order—

- (a) on the person from whom the property was seized; and
- (b) on each person whom the applicant can reasonably ascertain to be a person by, for or on behalf of whom the property was held immediately before it was seized.

20. Application for further detention of seized property under section 12H(3) (O. 117A, r. 20)

- (1) An application under section 12H(3) for an order to authorize the further detention of seized property must be made by a summons supported by an affidavit in the proceedings commenced under rule 19.
- (2) The affidavit in support must—
 - (a) state the grounds for suspecting that the seized property is terrorist property; and
 - (b) give particulars, in terms of the matters referred to in section 12H(2)(b), as to why the further detention of the seized property is justified.
- (3) The summons and a copy of the affidavit in support must be served not less than 5 clear days before the date fixed for the hearing of the application on each affected person.
- (4) If a person served with the summons wishes to adduce any affidavit evidence in opposition to it, the person must, not less than 2 clear days before the date fixed for the hearing of the application, file an affidavit of evidence with the Court and serve a copy of the affidavit—
 - (a) on the Secretary for Justice; and
 - (b) on every other affected person.
- (5) If an order is made under section 12H(3), the applicant for the order must, as soon as practicable, serve the order on each affected person.
- (6) In this rule and rules 21 and 22, *affected person* (受影響的人), in relation to the seized property, means a person on whom an order has been served under rule 19(3) in respect of that property.

21. Application for release of seized property under section 12H(4) (O. 117A, r. 21)

- (1) An application under section 12H(4)(a) for the release of seized property detained by an order under section 12H(2) or (3) must be made by a summons supported by an affidavit stating the grounds on which the application is made.
- (2) The summons and a copy of the affidavit in support must be served not less than 5 clear days before the date fixed for the hearing of the application—
 - (a) on the Secretary for Justice; and
 - (b) on each affected person.
- (3) An application under section 12H(4)(b) for the release of seized property detained by an order under section 12H(2) or (3) must be made ex parte by a summons supported by an affidavit stating the grounds on which the application is made.

22. Release of seized property (O. 117A, r. 22)

If, in relation to any seized property—

- (a) an order under section 12H(2) expires without an order being made under section 12H(3);
- (b) an order under section 12H(3) expires without a further order being made under that section; or
- (c) a direction is obtained under section 12H(4),

then, subject to section 12H(5) and unless the Court has directed that an issue be stated and tried as between the affected persons, the property must be forthwith released, on such terms, if any, as the Court thinks fit, to the person from whom the property was seized or to such other person as appears to be entitled to it.

23. Application to Court to revoke order made under section 5(2) or notice given under section 6(1) (O. 117A, r. 23)

- (1) An application under section 17(1)(a) to revoke, in whole or in part, an order under section 5(2) that has been made ex parte must be made by a summons.
- (2) For the purposes of paragraph (1) and section 17(1)(a), if an order under section 5(2) has been obtained by an application heard in the absence of the subject person or a holder under rule 5 or 8, in relation to that

subject person or holder only, the application and the order are regarded to have been made ex parte.

- (3) An application under section 17(1)(b) to revoke, in whole or in part, a notice under section 6(1) must be made—
- (a) if in the Court there are existing proceedings conducted under the Ordinance in respect of the property that is the subject of the application, by a summons; or
 - (b) if there are no such proceedings, by an expedited originating summons.

24. Application concerning direction mentioned in section 6(10) or licence mentioned in section 6(1) or 8 (O. 117A, r. 24)

- (1) An application under section 17(4) for the revocation or variation of a direction mentioned in section 6(10) or for the grant or variation of a licence mentioned in section 6(1) or 8 must be made—
- (a) if in the Court there are existing proceedings conducted under the Ordinance in respect of the property or financial (or related) services that is or are the subject of the application, by a summons; or (20 of 2012 s. 10)
 - (b) if there are no such proceedings, by an expedited originating summons.
- (2) If any affidavit in opposition to the summons or expedited originating summons has been filed with the Court, a copy of the affidavit must be served on the applicant not less than 3 clear days before the date fixed for the hearing of the application.

25. Application for compensation (O. 117A, r. 25)

- (1) An application under section 18 for an order for compensation must be made—
- (a) if in the Court there are existing proceedings conducted under the Ordinance in respect of the person or property to whom or which the application relates, by a summons; or
 - (b) if there are no such proceedings, by an expedited originating summons.
- (2) The summons or expedited originating summons, and a copy of any affidavit in support, must be served not less than 14 clear days before the date fixed for the hearing of the application—
- (a) on the Secretary for Justice; and
 - (b) on any other person on whose part, it is alleged, there has been default.
- (3) If any affidavit in opposition to the summons or expedited originating summons has been filed with the Court, a copy of the affidavit must be served by the Secretary for Justice on the applicant not less than 7 clear days before the date fixed for the hearing of the application.

26. Affidavits containing statements of information or belief (O. 117A, r. 26)

If an affidavit referred to in this Order contains a statement of information or belief, it must also contain the sources and grounds of the information or belief unless the Court otherwise directs.

27. Service out of jurisdiction (O. 117A, r. 27)

The service of any document under this Order out of the jurisdiction is permissible with the leave of the Court.

(L.N. 186 of 2009)

(Format changes—E.R. 2 of 2012)

Chapter:	204	INDEPENDENT COMMISSION AGAINST CORRUPTION ORDINANCE	Gazette Number	Version Date
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Section:	10	Power of arrest	14 of 2003	09/05/2003
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- (1) An officer authorized in that behalf by the Commissioner may without warrant arrest a person if he reasonably suspects that such person is guilty of an offence under this Ordinance or the Prevention of Bribery Ordinance (Cap 201) or the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) or, being a prescribed officer, is guilty of an offence of blackmail committed by or through the misuse of office. (Amended 27 of 1980 s. 2; 10 of 2000 s. 47; 14 of 2003 s. 21)

(2) Where, during an investigation by the Commission of a suspected offence under the Prevention of Bribery Ordinance (Cap 201) or of a suspected offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), another offence is disclosed, any such officer may without warrant arrest a person if he reasonably suspects that such person is guilty of that other offence and- (Amended 16 of 1991 s. 2; 10 of 2000 s. 47)

- (a) he reasonably suspects that such other offence was connected with, or that either directly or indirectly its commission was facilitated by, the suspected offence under the Prevention of Bribery Ordinance (Cap 201) or the suspected offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), as the case may be; or (Amended 16 of 1991 s. 2; 10 of 2000 s. 47)
- (b) the other offence is one which is specified for the purposes of this subsection in subsection (5).

(3) Any such officer-

- (a) may use such force as is reasonable in the circumstances in effecting an arrest under subsection (1) or (2); and (Amended 18 of 1976 s. 2)
- (b) may, for the purpose of effecting such an arrest, enter and search any premises or place if he has reason to believe that there is in the premises or place a person who is to be so arrested.

(4) No premises or place shall be entered under subsection (3) unless the officer has first stated that he is an officer and the purpose for which he seeks entry and produced his warrant card to any person requesting its production, but subject as aforesaid any such officer may enter any such premises or place by force, if necessary.

(5) The following offences are specified for the purposes of subsection (2)-

- (a) the offence of perverting or obstructing the course of justice;
- (aa) the offence of theft under section 9 of the Theft Ordinance (Cap 210); (Added 27 of 1980 s. 2)
- (b) the offence of blackmail under section 23 of the Theft Ordinance (Cap 210);
- (ba) the offence of fraud under section 16A of the Theft Ordinance (Cap 210); (Added 45 of 1999 s. 5)
- (c) the offence of obtaining property by deception under section 17 of the Theft Ordinance (Cap 210);
- (d) the offence of obtaining pecuniary advantage by deception under section 18 of the Theft Ordinance (Cap 210);
- (da) the offence of obtaining services by deception under section 18A of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)
- (db) the offence of evading liability by deception under section 18B of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)
- (dc) the offence of making off without payment under section 18C of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)
- (dd) the offence of procuring a false entry in certain records under section 18D of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)
- (de) the offence of false accounting under section 19 of the Theft Ordinance (Cap 210); (Added 27 of 1980 s. 2. Amended 51 of 1987 s. 4)
- (e) the offence of assisting an offender under section 90 of the Criminal Procedure Ordinance (Cap 221);
- (ea) any offence under regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); (Replaced 134 of 1997 s. 85)
- (f) the offence of conspiracy to defraud and the offence of conspiracy to commit any of the offences referred to in paragraph (a), (aa), (b), (ba), (c), (d), (da), (db), (dc), (dd), (de), (e) or (ea); (Replaced 27 of 1980 s. 2. Amended 51 of 1987 s. 4; 16 of 1991 s. 2; 45 of 1999 s. 5)
- (g) an attempt to commit any offence referred to in paragraph (a), (aa), (b), (ba), (c), (d), (da), (db), (dc), (dd), (de), (e) or (ea) or the offence of aiding, abetting, counselling or procuring any offence so referred to. (Replaced 27 of 1980 s. 2. Amended 51 of 1987 s. 4; 16 of 1991 s. 2; 45 of 1999 s. 5)
(Replaced 14 of 1976 s. 2)

Chapter:	331	IMMIGRATION SERVICE ORDINANCE	Gazette Number	Version Date
Schedule:	2	SCHEDULED OFFENCES	18 of 2014	05/12/2014

[section 2]

PART I

Column 1	Column 2	Column 3
Item	Enactment	Description of offence
1.	Registration of Persons Ordinance (Cap 177) section 5 section 7A section 7AA section 7B section 12	failure to use registered name and to submit number of identity card possession of forged identity cards transfer of identity card failure to apply for new identity cards unauthorized handling of particulars (Amended 9 of 2003 s. 24; 18 of 2014 s. 163)
2.	Registration of Persons Regulations (Cap 177 sub. leg. A) regulation 11(2A) regulation 11A(2) regulation 12(1) regulation 12(1A) regulation 12(2) regulation 12(2A) regulation 13A regulation 19	failure to carry and produce identity card obstructing public officers in verification of identity making alteration to identity card or documents tampering with chip in identity card possession of altered identity card or documents possession of identity card embodying chip tampered with furnishing false particulars of loss, etc. of identity card miscellaneous offences (Amended 9 of 2003 s. 24)
3.	Crimes Ordinance (Cap 200) section 32 section 34 section 35 section 36 section 38 section 40 section 71 section 72 section 73 section 74 section 75 section 76	false statements on oath made otherwise than in a judicial proceeding false statements, etc. with reference to marriage false statements, etc. as to births or deaths false statutory declarations and other false statements without oath aiders, abettors, suborners, etc. regarding commission of offences relating to perjury, etc. using false affidavits forgery copying a false instrument using a false instrument using a copy of a false instrument possessing a false instrument making or possessing equipment for making a false instrument

section 88
 section 89
 section 93

making false entry in register of births, etc.
 making false entry in copy of register sent to registrar
 aiders and abettors regarding commission of offences relating to false certification and personation, etc.

PART II

Column 1	Column 2	Column 3
Item	Enactment	Description of offence
1.	Births and Deaths Registration Ordinance (Cap 174) section 21(3) section 28	obstruction, etc. to inquiry of correctness of death certificate breach or infringement of any provisions of the Births and Deaths Registration Ordinance (Cap 174)
2.	Births Registration (Special Registers) Ordinance (Cap 175) section 10(1) section 10(2)	loss or injury of special register of births, etc. tampering with database, etc. (Amended 8 of 2006 s. 51)
3.	Deaths Registration (Special Registers) Ordinance (Cap 176) section 10(1) section 10(2)	loss or injury of special register of deaths, etc. tampering with database, etc. (Amended 8 of 2006 s. 51)
4.	Marriage Reform Ordinance (Cap 178) section 10(2) section 23	failure to comply with a summons or requirement issued or made for purposes of determination of application for registration of customary marriage or validated marriage removal, etc. of records
5.	Marriage Ordinance (Cap 181) section 29 section 30 section 31(1) or (2) section 31A(1) section 31A(2) section 31A(3) section 31A(4) section 32	marrying, etc. minor without consent of proper person offences by minister failure to transmit certificate failure by civil celebrant to return notice of appointment, etc. upon cancellation or suspension of appointment failure by civil celebrant to provide information failure by civil celebrant to notify cessation of compliance with appointment criteria failure by civil celebrant to forward certificate of the Registrar to parties removing, etc. record

<p>section 33 section 33A(1)</p> <p>section 33B</p> <p>section 39(3)</p> <p>section 39(4)</p>	<p>unauthorized person celebrating marriage providing false information in relation to appointment of civil celebrant</p> <p>false advertisement or representation as regards status of civil celebrant</p> <p>failure to comply with conditions of celebration of marriage in articulo mortis, etc.</p> <p>failure by minister to transmit certificate of marriage in articulo mortis</p> <p style="text-align: right;">(Amended 23 of 2005 s. 27)</p>
<p>6. Offences against the Person Ordinance (Cap 212) section 45</p>	<p>bigamy</p>

Any description of an offence is included for ease of reference only.

(Added 53 of 1996 s. 9)

Chapter:	342	CUSTOMS AND EXCISE SERVICE ORDINANCE	Gazette Number	Version Date
Schedule:	2	ORDINANCES REFERRED TO IN SECTIONS 17 AND 17A	L.N. 60 of 2011	01/08/2011

[sections 17 & 17A]

Import and Export Ordinance (Cap 60)
 Post Office Ordinance (Cap 98)
 Dutiable Commodities Ordinance (Cap 109)
 Pesticides Ordinance (Cap 133) (Added L.N. 143 of 1977. Amended 79 of 1990 s. 21)
 Dangerous Drugs Ordinance (Cap 134)
 Antibiotics Ordinance (Cap 137)
 Pharmacy and Poisons Ordinance (Cap 138)
 Control of Chemicals Ordinance (Cap 145) (Replaced 14 of 2003 s. 24)
 Plant (Importation and Pest Control) Ordinance (Cap 207) (Added L.N. 117 of 1976)
 Weapons Ordinance (Cap 217) (Added L.N. 361 of 1981)
 Firearms and Ammunition Ordinance (Cap 238) (Replaced L.N. 361 of 1981)
 Dangerous Goods Ordinance (Cap 295) (Added L.N. 1 of 1974)
 Reserved Commodities Ordinance (Cap 296) (Added L.N. 73 of 1983)
 Air Pollution Control Ordinance (Cap 311) (Added 13 of 1993 s. 37)
 Trade Descriptions Ordinance (Cap 362) (Replaced 39 of 1980 s. 37)
 Control of Obscene and Indecent Articles Ordinance (Cap 390) (Replaced L.N. 132 of 1987)
 Ozone Layer Protection Ordinance (Cap 403) (Added 24 of 1989 s. 19)
 Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405) (Added 35 of 1989 s. 33)
 Rabies Ordinance (Cap 421) (Added L.N. 452 of 1995)
 Toys and Children's Products Safety Ordinance (Cap 424) (Added 80 of 1992 s. 36)
 Organized and Serious Crimes Ordinance (Cap 455) (Added 82 of 1994 s. 35)
 Consumer Goods Safety Ordinance (Cap 456) (Added 84 of 1994 s. 36)
 Mutual Legal Assistance in Criminal Matters Ordinance (Cap 525) (Added 87 of 1997 s. 36)
 Copyright Ordinance (Cap 528) (Replaced 92 of 1997 s. 280)
 Prevention of Copyright Piracy Ordinance (Cap 544) (Added 22 of 1998 s. 42)
 Chinese Medicine Ordinance (Cap 549) (Added 47 of 1999 s. 169)
 Chemical Weapons (Convention) Ordinance (Cap 578) (Added 26 of 2003 s. 44)
 Prevention of Child Pornography Ordinance (Cap 579) (Added 31 of 2003 s. 21)
 Protection of Endangered Species of Animals and Plants Ordinance (Cap 586) (Added 3 of 2006 s. 57)
 Food Safety Ordinance (Cap 612) (Added 5 of 2011 s. 74)

(Amended 13 of 1995 s. 2; 3 of 2006 s. 57)

THE FATF RECOMMENDATIONS

Number	Old Number ¹	
A – AML/CFT POLICIES AND COORDINATION		
1	-	Assessing risks & applying a risk-based approach *
2	R.31	National cooperation and coordination
B – MONEY LAUNDERING AND CONFISCATION		
3	R.1 & R.2	Money laundering offence *
4	R.3	Confiscation and provisional measures *
C – TERRORIST FINANCING AND FINANCING OF PROLIFERATION		
5	SRII	Terrorist financing offence *
6	SRIII	Targeted financial sanctions related to terrorism & terrorist financing *
7		Targeted financial sanctions related to proliferation *
8	SRVIII	Non-profit organisations *
D – PREVENTIVE MEASURES		
9	R.4	Financial institution secrecy laws
		<i>Customer due diligence and record keeping</i>
10	R.5	Customer due diligence *
11	R.10	Record keeping
		<i>Additional measures for specific customers and activities</i>
12	R.6	Politically exposed persons *
13	R.7	Correspondent banking *
14	SRVI	Money or value transfer services *
15	R.8	New technologies
16	SRVII	Wire transfers *
		<i>Reliance, Controls and Financial Groups</i>
17	R.9	Reliance on third parties *
18	R.15 & R.22	Internal controls and foreign branches and subsidiaries *
19	R.21	Higher-risk countries *
		<i>Reporting of suspicious transactions</i>
20	R.13 & SRIV	Reporting of suspicious transactions *
21	R.14	Tipping-off and confidentiality
		<i>Designated non-financial Businesses and Professions (DNFBPs)</i>
22	R.12	DNFBPs: Customer due diligence *
23	R.16	DNFBPs: Other measures *

E – TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS AND ARRANGEMENTS

24	R.33	Transparency and beneficial ownership of legal persons *
25	R.34	Transparency and beneficial ownership of legal arrangements *

F – POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES AND OTHER INSTITUTIONAL MEASURES

Regulation and Supervision

26	R.23	Regulation and supervision of financial institutions *
27	R.29	Powers of supervisors
28	R.24	Regulation and supervision of DNFBPs

Operational and Law Enforcement

29	R.26	Financial intelligence units *
30	R.27	Responsibilities of law enforcement and investigative authorities *
31	R.28	Powers of law enforcement and investigative authorities
32	SRIX	Cash couriers *

General Requirements

33	R.32	Statistics
34	R.25	Guidance and feedback

Sanctions

35	R.17	Sanctions
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G – INTERNATIONAL COOPERATION

36	R.35 & SRI	International instruments
37	R.36 & SRV	Mutual legal assistance
38	R.38	Mutual legal assistance: freezing and confiscation *
39	R.39	Extradition
40	R.40	Other forms of international cooperation *

1. The 'old number' column refers to the corresponding 2003 FATF Recommendation.

* Recommendations marked with an asterisk have interpretive notes, which should be read in conjunction with the Recommendation.

Version as adopted on 15 February 2012.