

附表 3

[第 2 條及附表 7]

關於凍結、限制、沒收及充公財產的細則

1. 釋義

(1) 在本附表中——

可變現財產 (realisable property) 具有《有組織及嚴重罪行條例》(第 455 章) 第 12 條所給予的涵義並加以下述的變通——

- (a) 在該條中對“指明的罪行”或“有組織罪行”的提述，即提述“危害國家安全罪行”；
- (b) 在該條中對“本條例”的提述，即提述“本附表”；
- (c) 在該條中對“被告人”的提述，具有本款對該詞所界定的涵義；及
- (d) 在該條第 (9) 款中提述某人被起訴，即提述對某人提起法律程序而須按照第 (2) 款解釋；

被告人 (defendant) 指符合以下說明的人：已就某項危害國家安全罪行對其提起法律程序者（不論該人就該項罪行是否已被定罪）；

財產 (property) 包括《釋義及通則條例》(第 1 章) 第 3 條所界定的動產及不動產；

罪行相關財產 (offence related property) 指——

- (a) 符合以下說明的人的財產——
 - (i) 任何干犯或企圖干犯危害國家安全罪行的人；或

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[r. 2 & Sch. 7]

Rules Relating to Freezing, Restraint, Confiscation and Forfeiture of Property

1. Interpretation

(1) In this Schedule—

authorized officer (獲授權人員) means a legal officer authorized in writing by the Secretary for Justice for the purposes of any application under this Schedule;

defendant (被告人) means a person against whom proceedings have been instituted for an offence endangering national security (whether or not the person has been convicted of that offence);

offence related property (罪行相關財產) means—

- (a) the property of a person—
 - (i) who commits, or attempts to commit, an offence endangering national security; or
 - (ii) who participates in or facilitates the commission of an offence endangering national security; or
- (b) any property that is intended to be used or was used to finance or otherwise assist the commission of an offence endangering national security;

property (財產) includes movable property and immovable property as defined by section 3 of the Interpretation and General Clauses Ordinance (Cap. 1);

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(ii) 任何參與或協助干犯危害國家安全罪行的人；
或

(b) 任何擬用於或曾用於資助或以其他方式協助干犯危害國家安全罪行的財產；

獲授權人員 (authorized officer) 指就任何本附表所指的申請而獲律政司司長以書面授權的律政人員。

(2) 就本附表而言，如 ——

(a) 裁判官就某項罪行根據《裁判官條例》(第 227 章) 第 72 條針對某人發出手令或傳票；

(b) 某人因某項罪行而被逮捕 (不論該人是否獲保釋)；

(c) 某人在無手令的情況下受拘押後被控以某項罪行；
或

(d) 控告某人某項罪行的公訴書，根據《刑事訴訟程序條例》(第 221 章) 第 24A(1)(b) 條，按法官的指示或經其同意而提出，

即屬對該人就該項罪行提起法律程序。(2023 年第 166 號法律公告)

(2A) 然而，第 (2) 款適用於解釋本附表第 3(4B)(a) 條時，須在猶如該款 (b) 段並不存在的情況下理解。(2023 年第 166 號法律公告)

(3) 就本附表而言 ——

(a) 任何人從危害國家安全罪行的得益是 ——

(i) 在任何時間，因干犯危害國家安全罪行的關係而由該人收受的任何款項或其他酬賞；

(ii) 該人直接或間接從任何上述款項或其他酬賞得來的任何財產或將該等款項或酬賞變現所得的任何財產；及

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realisable property (可變現財產) has the meaning given by section 12 of the Organized and Serious Crimes Ordinance (Cap. 455) with the following modifications—

(a) a reference in that section to “specified offence” or “organized crime” is a reference to “offence endangering national security”;

(b) a reference in that section to “this Ordinance” is a reference to “this Schedule”;

(c) a reference in that section to “defendant” has the meaning as defined by this subsection; and

(d) a reference in subsection (9) of that section to proceedings are instituted is to be construed in accordance with subsection (2).

(2) For the purposes of this Schedule, proceedings for an offence are instituted against a person if—

(a) a magistrate issues a warrant or summons against the person under section 72 of the Magistrates Ordinance (Cap. 227) in respect of the offence;

(b) the person has been arrested for the offence (whether or not the person is released on bail);

(c) the person is charged with the offence after being taken into custody without a warrant; or

(d) an indictment charging the person with the offence is preferred by the direction or with the consent of a judge under section 24A(1)(b) of the Criminal Procedure Ordinance (Cap. 221). (L.N. 166 of 2023)

(2A) However, when subsection (2) is applied in construing section 3(4B)(a) of this Schedule, that subsection is to be read as if

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- (iii) 因干犯危害國家安全罪行的關係而獲取的任何金錢利益；及
- (b) 該人從某項危害國家安全罪行的得益的價值是以下各項的價值的總和——
 - (i) 上述款項或其他酬賞；
 - (ii) 該財產；及
 - (iii) 該金錢利益。
- (4) 就本附表而言，任何人在任何時間（不論是在本附表生效*之前或之後），因干犯某項危害國家安全罪行的關係而收受任何款項或其他酬賞，即屬從該項罪行中獲利。
- (5) 本附表凡提述因干犯危害國家安全罪行的關係而收受的財產，包括因該種關係及其他關係而收受的財產。
- (6) 任何人持有財產上的任何權益，即屬持有該財產。

編輯附註：

* 生效日期：2020 年 7 月 7 日。

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- paragraph (b) of that subsection did not exist. (*L.N. 166 of 2023*)
- (3) For the purposes of this Schedule—
 - (a) a person's proceeds of an offence endangering national security are—
 - (i) any payments or other rewards received by the person at any time in connection with the commission of an offence endangering national security;
 - (ii) any property derived or realized, directly or indirectly, by the person from any of the payments or other rewards; and
 - (iii) any pecuniary advantage obtained in connection with the commission of an offence endangering national security; and
 - (b) the value of the person's proceeds of an offence endangering national security is the aggregate of the values of—
 - (i) the payments or other rewards;
 - (ii) that property; and
 - (iii) that pecuniary advantage.
 - (4) For the purposes of this Schedule, a person who has at any time (whether before or after the commencement* of this Schedule) received any payment or other reward in connection with the commission of an offence endangering national security has benefited from that offence.
 - (5) References in this Schedule to property received in connection with the commission of an offence endangering

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2. 本附表適用的財產

本附表適用於在香港及在其他地方的財產。

3. 凍結財產

- (1) 保安局局長如有合理理由懷疑某人所持有的任何財產是罪行相關財產，可藉指明該財產的書面通知，指示除根據保安局局長批予的特許的授權外，任何人不得直接或間接處理該財產。
- (2) 如保安局局長不再有合理理由懷疑通知所指明的財產或其中某部分是罪行相關財產，或原訟法庭已根據本附表第 4(1) 條批准某項關乎該財產或部分財產的申請，則保安局局長須在合理地切實可行的情況下盡快藉書面通知撤銷通知或其相關部分。
- (3) 保安局局長須在第 (1) 款所指的通知，指明該通知的有效期。*(2023 年第 166 號法律公告)*
- (3A) 根據第 (3) 款指明的有效期，不得超過 2 年。*(2023 年第 166 號法律公告)*
- (4) 保安局局長可向原訟法庭申請延長第 (1) 款所指的通知的有效期。除非原訟法庭信納與該通知相關就有關危害國家安全罪行展開的偵查按理不能在通知有效期屆滿前完成，否則不得批准延期。任何延期均不得超過為進行該

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national security include a reference to property received both in that connection and in some other connections.

- (6) Property is held by any person if the person holds any interest in it.

Editorial Note:

* Commencement date: 7 July 2020.

2. Property to which this Schedule applies

This Schedule applies to property whether it is situated in Hong Kong or elsewhere.

3. Freezing of property

- (1) Where the Secretary for Security has reasonable grounds to suspect that any property held by any person is offence related property, the Secretary may, by notice in writing specifying the property, direct that a person must not, directly or indirectly, deal with the property except under the authority of a licence granted by the Secretary.
- (2) If the Secretary for Security ceases to have reasonable grounds to suspect that the property specified in the notice, or part of the property, is offence related property, or the Court of First Instance has granted an application under section 4(1) of this Schedule which relates to the property or part of the property, then the Secretary must, as soon as is reasonably practicable, by notice in writing revoke the notice or a relevant part of it.
- (3) The Secretary for Security must, in a notice under subsection (1), specify the validity period of the notice. *(L.N. 166 of 2023)*

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- 偵查而合理地需用的時間(如有需要,保安局局長可再次申請延期)。(2023 年第 166 號法律公告)
- (4A) 如第 (1) 款所指的通知的有效期限屆滿時,保安局局長已根據第 (4) 款提出申請,而該申請的法律程序尚未結束,則該通知的有效期限須延長至以下期間屆滿為止——
- (a) 如法庭批准延期——法庭所批准延長的期間;或
- (b) 如屬其他情況——自該申請的法律程序結束當日起計的 14 日期間。(2023 年第 166 號法律公告)
- (4B) 如第 (1) 款所指的通知的有效期限屆滿時——
- (a) 已就與該通知相關的危害國家安全罪行提起法律程序;及
- (b) 任何該等法律程序(包括在該等法律程序中提出的沒收令申請的法律程序)尚未結束,
- 則該通知的有效期限須延長至自所有該等法律程序結束當日起計的 28 日期間屆滿為止。(2023 年第 166 號法律公告)
- (4C) 如第 (1) 款所指的通知的有效期限屆滿時——
- (a) 已就該通知指明的財產的任何部分提出限制令、押記令或充公令的申請;及
- (b) 該申請的任何法律程序尚未結束,
- 則該通知的有效期限須延長至自所有該等法律程序結束當日起計的 14 日期間屆滿為止。(2023 年第 166 號法律公告)
- (4D) 為免生疑問,如通知的有效期限根據第 (4A)、(4B) 及 (4C) 款中的多於一款而延長,則該通知的有效期限以當中最遲屆滿者為準。(2023 年第 166 號法律公告)
- (4E) 保安局局長——
- (a) 如通知的有效期限根據第 (4) 或 (4A)(a) 款而延長——須在該通知的有效期限每次延長後;及

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- (3A) The validity period specified under subsection (3) must not exceed 2 years. (*L.N. 166 of 2023*)
- (4) The Secretary for Security may make an application to the Court of First Instance for extending the validity period of a notice under subsection (1). The Court of First Instance must not grant the extension unless it is satisfied that the investigation of the offence endangering national security, to which the notice relates, could not reasonably have been completed before the expiry of the validity period of the notice. An extension must not exceed such time as is reasonably necessary for the conduct of the investigation (the Secretary may further apply for extension if necessary). (*L.N. 166 of 2023*)
- (4A) If, on the expiry of the validity period of a notice under subsection (1), the Secretary for Security has made an application under subsection (4) and the proceedings for the application have not been concluded, the validity period of the notice is to be extended until the expiry of—
- (a) if the court grants the extension—the extended period as granted by the court; or
- (b) otherwise—the period of 14 days beginning on the day on which the proceedings for the application are concluded. (*L.N. 166 of 2023*)
- (4B) If, on the expiry of the validity period of a notice under subsection (1)—
- (a) proceedings for an offence endangering national security that relates to the notice have been instituted; and
- (b) any of the proceedings (including the proceedings for an application for a confiscation order made in the first-mentioned proceedings) have not been concluded,

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- (b) 如通知的有效期限根據第 (4A)(b)、(4B) 或 (4C) 款而延長——須在該通知的有效期限每次延長後及在該通知失效後，
- 在合理地切實可行的情況下，盡快向持有有關財產的人發出書面通知。(2023 年第 166 號法律公告)
- (5) 根據第 (1)、(2) 或 (4E) 款發出的通知，須送達持有有關財產的人(收件人)，並須規定收件人立刻將該通知的副本送交每名符合以下描述的人(如有的話)：該財產所屬的人(該人)或為該人(或代表該人)持有該財產的人。(2023 年第 166 號法律公告)
- (6) 如——
- (a) 根據第 (1) 款發出的通知所指明的財產涉及不動產；或
- (b) 根據第 (2) 或 (4E) 款發出的通知所關乎的財產涉及不動產，
- 則該通知須當作為影響土地的文書而可根據《土地註冊條例》(第 128 章)，以土地註冊處處長認為合適的方式註冊。(2023 年第 166 號法律公告)
- (7) 保安局局長如有合理理由懷疑第 (1) 款所指的通知所指明的財產會被調離香港，可在通知內——(2023 年第 166 號法律公告)
- (a) 指示警務人員可為防止該財產被調離香港而檢取該財產；
- (b) 作出指示，而任何被如此檢取的財產須按照該指示處理。
- (8) 任何人明知而違反第 (1) 款所指的通知，即屬犯罪，一經循公訴程序定罪，可處罰款及監禁 7 年。
- (9) 任何人無合理辯解而違反第 (5) 款所指的規定，即屬犯罪，一經定罪，可處罰款 \$100,000 及監禁 3 個月。

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- the validity period of the notice is to be extended until the expiry of the period of 28 days beginning on the day on which all of the proceedings are concluded. (L.N. 166 of 2023)
- (4C) If, on the expiry of the validity period of a notice under subsection (1)—
- (a) an application for a restraint order, charging order or forfeiture order has been made in relation to any part of the property specified in the notice; and
- (b) any proceedings for the application have not been concluded,
- the validity period of the notice is to be extended until the expiry of the period of 14 days beginning on the day on which all of the proceedings are concluded. (L.N. 166 of 2023)
- (4D) To avoid doubt, if the validity period of a notice is extended under more than one subsection among subsections (4A), (4B) and (4C), the validity period of the notice is the one that expires the latest. (L.N. 166 of 2023)
- (4E) The Secretary for Security must—
- (a) if the validity period of a notice is extended under subsection (4) or (4A)(a)—as soon as is reasonably practicable after the validity period of the notice is extended each time; and
- (b) if the validity period of a notice is extended under subsection (4A)(b), (4B) or (4C)—as soon as is reasonably practicable after the validity period of the notice is extended each time and after the notice expires, issue a notice in writing to the person holding the property concerned. (L.N. 166 of 2023)

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- (10) 就第(4A)、(4B)及(4C)款而言，在以下情況下，有關法律程序即告結束——
- (a) 提起該法律程序的一方撤回或中止該法律程序；
 - (b) 法庭就該法律程序作出最終判決或決定，而該判決或決定是不可上訴或覆核的；
 - (c) 針對就該法律程序作出的最終判決或決定提出上訴或覆核的訂明期限屆滿，而沒有任何一方提出上訴或覆核；或
 - (d) 就沒收令或充公令的申請的法律程序而言——該法律程序中所發出的沒收令或充公令得到圓滿執行（不論所用方法是繳付根據該命令須繳付的款額，或由被告人接受監禁以作抵償）。（2023年第166號法律公告）

- (5) A notice issued under subsection (1), (2) or (4E) must be served on the person holding the property concerned (*recipient*) and must require the recipient to send a copy of the notice without delay to each person, if any, whose property it is, or for or on behalf of whom the property is held. (*L.N. 166 of 2023*)
- (6) If—
- (a) any property specified in a notice issued under subsection (1) involves immovable property; or
 - (b) any property relating to a notice issued under subsection (2) or (4E) involves immovable property,
- the notice is taken to be an instrument affecting land and is registrable under the Land Registration Ordinance (Cap. 128) in the way that the Land Registrar considers appropriate. (*L.N. 166 of 2023*)
- (7) If the Secretary for Security has reasonable cause to suspect that any property specified in a notice under subsection (1) will be removed from Hong Kong, the Secretary may in the notice— (*L.N. 166 of 2023*)
- (a) give a direction that a police officer may, for the purpose of preventing the property from being removed from Hong Kong, seize the property;
 - (b) give directions in accordance with which the property so seized is to be dealt with.

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- (11) 為免生疑問，經《2023 年〈中華人民共和國香港特別行政區維護國家安全法第四十三條實施細則〉(修訂)實施細則》(《修訂細則》)修訂的本附表，適用於在《修訂細則》開始實施的日期 * 之前根據第 (1) 款發出，而在該日仍然有效的通知。(2023 年第 166 號法律公告)

編輯附註：

*《修訂細則》(2023 年第 166 號法律公告) 於 2023 年 12 月 15 日開始實施。

- (8) A person who knowingly contravenes a notice under subsection (1) commits an offence and is liable on conviction on indictment to a fine and to imprisonment for 7 years.
- (9) A person who, without reasonable excuse, contravenes a requirement under subsection (5) commits an offence and is liable on conviction to a fine of \$100,000 and to imprisonment for 3 months.
- (10) For the purposes of subsections (4A), (4B) and (4C), the proceedings are concluded if—
- (a) the party that instituted the proceedings withdraws or discontinues the proceedings;
 - (b) the court makes the final judgment or decision in respect of the proceedings, and the judgment or decision is not appealable or reviewable;
 - (c) the prescribed period for making an appeal or review against the final judgment or decision made in respect of the proceedings expires, and no appeal or review is made by any party; or
 - (d) in the case of proceedings for an application for a confiscation order or forfeiture order—the confiscation order or forfeiture order made in the proceedings is satisfied (whether by payment of the amount due under the order or by the defendant serving imprisonment in default). (*L.N. 166 of 2023*)
- (11) To avoid doubt, this Schedule as amended by the 2023 Implementation Rules for Amending the Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (**amending Rules**) applies to notices that are issued under subsection (1) before, and are

4. 向原訟法庭提出的申請

- (1) 如已有通知根據本附表第 3 條送達——
 - (a) 任何持有通知所指明的財產的人，或任何由他人為之或代表持有該財產的人，或任何其他獲原訟法庭信納為受該通知所影響的人，可向原訟法庭提出申請，要求在該通知關乎如此指明的財產的範圍內撤銷該通知；及
 - (b) 原訟法庭除非信納有合理理由懷疑該財產是罪行相關財產，否則須批准該項申請。
- (2) 受根據本附表第 3 條送達的通知所影響的人（包括受該條的實施所影響的人），可向原訟法庭提出申請，要求批准或更改本附表第 3(1) 條所述的特許或撤銷或更改本附表第 3(7) 條所述的指示。原訟法庭除非信納在有關個案的整體情況下批准該項申請屬合理，否則不得批准該項申請。
- (3) 任何人如根據第 (1) 或 (2) 款提出申請，須按照根據本附表第 15 條而適用的法院規則，將該項申請通知律政司長及受影響的任何其他人。
- (4) 保安局局長須在合理地切實可行的情況下，盡快安排執行原訟法庭根據本條作出的決定。

still effective on, the day on which the amending Rules come into operation*. (L.N. 166 of 2023)

Editorial Note:

* The amending Rules (L.N. 166 of 2023) came into operation on 15 December 2023.

4. Applications to Court of First Instance

- (1) Where a notice has been served under section 3 of this Schedule, then—
 - (a) 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 of First Instance is satisfied that the person is affected by the notice, may make an application to the Court of First Instance for the notice to be revoked to the extent that it relates to the property so specified; and
 - (b) the Court of First Instance must grant the application unless it is satisfied that there are reasonable grounds to suspect that the property is offence related property.
- (2) Any person affected by a notice served under section 3 of this Schedule (including a person affected by the operation of that section) may make an application to the Court of First Instance for the grant or variation of a licence mentioned in section 3(1) of this Schedule, or the revocation or variation of a direction mentioned in section 3(7) of this Schedule. The Court of First Instance must not grant the application unless it is satisfied that it is reasonable in all the circumstances of the case to do so.
- (3) A person who makes an application under subsection (1) or (2) must give notice of the application to the Secretary for Justice

5. 對某財產是罪行相關財產等的知悉或懷疑的披露

- (1) 凡任何人知悉或懷疑任何財產是罪行相關財產，該人須——
- (a) 將該項知悉或懷疑所根據的資料或其他事宜；及
 - (b) 在該人獲悉該資料或其他事宜後，在合理地切實可行的情況下盡快，向警務人員披露。
- (2) 已作出第 (1) 款所提述的披露的人，如作出任何與資助或協助干犯危害國家安全罪行相關的作為，而該項披露是關乎該作為的，則在 (a) 或 (b) 段指明的條件符合的情況下，該人即屬沒有干犯該罪行——
- (a) 有關披露是在該人作出有關作為之前作出的，而且該人是在警務人員同意下作出該作為；
 - (b) 有關披露是——
 - (i) 在該人作出有關作為之後作出的；
 - (ii) 由該人主動作出的；及
 - (iii) 在該人作出該項披露屬合理地切實可行後盡快作出的。
- (3) 凡任何人在有關時間是受僱的，則如該人按照其僱主就作出披露而設定的程序向適當的人作出披露，本條就該項披露而具有效力，一如本條就向警務人員作出披露而具有效力一樣。

5. Disclosure of knowledge or suspicion that property is offence related property etc.

- and any other person affected in accordance with the rules of court that are applicable under section 15 of this Schedule.
- (4) The Secretary for Security must, as soon as is reasonably practicable, cause a determination made by the Court of First Instance under this section to be implemented.
- (1) Where a person knows or suspects that any property is offence related property, then the person must disclose to a police officer the information or other matter—
- (a) on which the knowledge or suspicion is based; and
 - (b) as soon as is reasonably 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 relating to financing or assisting the commission of an offence endangering national security, and the disclosure relates to that act, the person does not commit that offence if the condition specified in paragraph (a) or (b) is satisfied—
- (a) the disclosure is made before the person does the act and the person does the act with the consent of a police 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 reasonably practicable for the person to make the disclosure.

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- (4) 凡任何人知悉或懷疑已有披露根據第 (1) 或 (3) 款作出，該人不得向另一人披露任何相當可能損害或會因應首述的披露而進行的任何調查的資料或其他事宜。
- (5) 根據或憑藉第 (1) 款所提述的披露而取得的資料，可 ——
 - (a) 由任何警務人員為防止及遏止危害國家安全行為及活動的目的，向律政司及其他警務人員披露；及
 - (b) 由任何警務人員為防止及遏止危害國家安全行為及活動的目的，披露予在該警務人員認為合適的香港以外任何地方的負責調查或防止危害國家安全行為及活動，或負責處理對知悉或懷疑某財產是罪行相關財產的披露的主管當局或人員。
- (6) 任何人違反第 (1) 款，即屬犯罪，一經定罪，可處罰款 \$50,000 及監禁 3 個月。
- (7) 任何人違反第 (4) 款，即屬犯罪，一經循公訴程序定罪，可處罰款及監禁 3 年。
- (8) 在任何就第 (7) 款所訂的罪行而針對某人提起的法律程序中，該人可證明以下事情作為免責辯護 ——
 - (a) 該人不知道亦沒有懷疑有關披露相當可能會如第 (4) 款所提述般造成損害；或
 - (b) 該人有合法權限作出該項披露或對作出該項披露有合理辯解。

- (3) In the case of a person who was in employment at the relevant time, this section has effect in relation to disclosures to the appropriate person in accordance with the procedure established by the person's employer for the making of such disclosures as it has effect in relation to disclosures to a police officer.
- (4) Where a person knows or suspects that a disclosure has been made under subsection (1) or (3), the person must 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.
- (5) Information obtained under or by virtue of a disclosure referred to in subsection (1) may be disclosed—
 - (a) by any police officer to the Department of Justice and other police officers for the purpose of preventing and suppressing acts or activities endangering national security; and
 - (b) by any police officer to the authorities or persons responsible for investigating or preventing acts or activities endangering national security, or handling the disclosure of knowledge or suspicion that any property is offence related property, of any place outside Hong Kong which the police officer considers appropriate, for the purpose of preventing and suppressing acts or activities endangering national security.
- (6) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$50,000 and to imprisonment for 3 months.
- (7) A person who contravenes subsection (4) commits an offence and is liable on conviction on indictment to a fine and to imprisonment for 3 years.

6. 限制令及押記令的申請

- (1) 律政司司長或獲授權人員，可在以下條件均符合下，向原訟法庭申請限制令或押記令——
 - (a) 有任何以下情況——
 - (i) 已就危害國家安全罪行提起檢控被告人的法律程序，或已根據本附表第 9 條就被告人提出沒收令申請或本附表第 10 條就沒收令提出更改申請，並且有關法律程序或申請尚未結束；
 - (ii) 已就危害國家安全罪行拘捕某人，而原訟法庭信納就有關個案的整體情況而言，有合理理由相信經進一步偵查後，該人有可能被控以該罪行；
 - (iii) 原訟法庭信納某人將會被控以危害國家安全罪行；及
 - (b) 原訟法庭信納有合理理由相信——
 - (i) 如屬已就沒收令提出更改申請的情況——原訟法庭會信納本附表第 10(2) 條所指明條件符合；或
 - (ii) 如屬其他情況——該人曾從該罪行中獲利。
- (2) 限制令或押記令，可由原訟法庭在內庭應單方面申請而發出。

6. Applications for restraint orders and charging orders

- (8) In proceedings against a person for an offence under subsection (7), it is a defence to prove—
 - (a) that the person did not know or suspect that the disclosure concerned was likely to be prejudicial in the way referred to in subsection (4); or
 - (b) that the person had lawful authority or reasonable excuse for making that disclosure.
- (1) The Secretary for Justice or an authorized officer may make an application to the Court of First Instance for a restraint order or charging order, subject to the following conditions—
 - (a) any of the following circumstances is present—
 - (i) proceedings have been instituted against the defendant for an offence endangering national security, or an application under section 9 of this Schedule for a confiscation order to be made against the defendant or an application under section 10 of this Schedule for variation of a confiscation order has been made, and the proceedings have not, or the application has not been concluded;
 - (ii) a person (*defendant*) has been arrested for an offence endangering national security, and the Court of First Instance is satisfied that, in all the circumstances of the case, there is reasonable ground to believe that the defendant may be charged with the offence after further investigation is carried out;

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- (3) 任何受限制令或押記令所影響的人，可向原訟法庭申請撤銷或更改限制令或押記令。原訟法庭除非信納在有關個案的整體情況下批准該項申請屬合理，否則不得批准該項申請。
- (4) 如任何人持有任何屬限制令或押記令標的之可變現財產，警務人員可藉送達該人的書面通知，規定該人在合理地切實可行範圍內向該警務人員交付該人所管有或控制的、可協助該警務人員評定該財產的價值的文件、文件副本或任何其他資料（不論屬何形式）。
- (5) 收到第(4)款所指通知的人，須在顧及有關可變現財產的性質下屬合理地切實可行範圍內遵從該通知的規定，亦須在收到通知後於合理地切實可行範圍內盡快遵從該等規定。
- (6) 任何人違反第(5)款，即屬犯罪，一經定罪，可處罰款 \$50,000 及監禁 1 年。
- (7) 任何人明知而在違反限制令或押記令的情況下處理任何可變現財產，即屬犯罪。
- (8) 任何人干犯第(7)款所訂的罪行，一經循公訴程序定罪，可處監禁 5 年及罰款，罰款額為 \$500,000 或屬有關限制令或押記令的標的而在違反該命令的情況下予以處理的可變現財產的價值，兩者以款額較大者為準。

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- (iii) the Court of First Instance is satisfied that a person (*defendant*) is to be charged with an offence endangering national security; and
- (b) the Court of First Instance is satisfied that there is reasonable ground to believe—
 - (i) if an application for variation of a confiscation order has been made—that the Court of First Instance will be satisfied of the matters specified in section 10(2) of this Schedule; or
 - (ii) in any other case—that the defendant has benefited from that offence.
- (2) A restraint order or charging order may be made on an ex parte application to the Court of First Instance in chambers.
- (3) An application for the discharge or variation of a restraint order or charging order may be made by any person affected by it to the Court of First Instance. The Court of First Instance must not grant the application unless it is satisfied that it is reasonable in all the circumstances of the case to do so.
- (4) A police officer may, by notice in writing served on a person who holds any realisable property the subject of a restraint order or charging order, require the person to deliver to the police officer, to the extent that it is reasonably practicable to do so, documents, or copies of documents, or any other information (in whatever form), in the person's possession or control which may assist the police officer to determine the value of the property.
- (5) A person who receives a notice under subsection (4) must, as soon as is reasonably practicable after receipt of the notice, comply with the notice to the extent that it is reasonably

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7. 限制令

- (1) 原訟法庭可藉限制令禁止任何人處理任何可變現財產；命令可指明條件及例外情況，容許在符合該等條件或例外情況下處理可變現財產。
- (2) 限制令可適用於命令內指明的人所持有的所有可變現財產，不論有關財產是否在命令內說明，或是在法庭發出命令後才移轉給該人的。
- (3) 原訟法庭發出限制令之後，可隨時委任接管人，在原訟法庭所指明的條件及例外情況的規限下——
 - (a) 接管任何可變現財產；及
 - (b) 依照原訟法庭的指示，管理或以其他方式處理接管人受委接管的任何財產，

原訟法庭並可要求任何管有有關財產的人，將該財產交予接管人接管。

practicable to do so taking into account the nature of the realisable property concerned.

- (6) Any person who contravenes subsection (5) commits an offence and is liable on conviction to a fine of \$50,000 and to imprisonment for 1 year.
- (7) A person who knowingly deals in any realisable property in contravention of a restraint order or charging order commits an offence.
- (8) A person who commits an offence under subsection (7) is liable on conviction on indictment to a fine of \$500,000 or to the value of the realisable property the subject of the restraint order or charging order concerned which has been dealt with in contravention of that order, whichever is the greater, and to imprisonment for 5 years.

7. Restraint orders

- (1) The Court of First Instance may by a restraint order prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.
- (2) A restraint order may apply to all realisable property held by a person specified in the order, whether the property is described in the order or not, or is transferred to the person after the making of the order.
- (3) Where the Court of First Instance has made a restraint order, the Court of First Instance may at any time appoint a receiver—
 - (a) to take possession of any realisable property; and

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- (4) 原訟法庭發出限制令之後，獲授權人員為防止任何可變現財產調離香港，可將有關財產扣押。
- (5) 如限制令涉及不動產，該命令須當作為影響土地的文書而可根據《土地註冊條例》(第 128 章)，以土地註冊處處長認為合適的方式註冊。

8. 就土地、證券等發出押記令

- (1) 原訟法庭可就可變現財產發出押記令，以作為向特區政府繳付以下款額的押記——
 - (a) 如沒收令未曾發出——相等於押記財產不時價值的款額；及
 - (b) 在其他情況下——不超過根據沒收令所須繳付的款額。
- (2) 押記令指根據本條發出、以命令內指明的可變現財產作為押記以擔保向特區政府繳付款項的命令。
- (3) 押記令只可用以下財產作為押記——
 - (a) 可變現財產的任何權益，而是由被告人實益持有的，或是由被告人直接或間接向被告人作出受本附表圍制的饋贈的人實益持有的，而且是——

- (b) in accordance with the directions of the Court of First Instance, to manage or otherwise deal with any property in respect of which the receiver is appointed,

subject to such conditions and exceptions as may be specified by the Court of First Instance; and may require any person having possession of the property to give possession of it to the receiver.

- (4) Where the Court of First Instance has made a restraint order, an authorized officer may, for the purpose of preventing any realisable property being removed from Hong Kong, seize the property.
- (5) If a restraint order concerns immovable property, the order is taken to be an instrument affecting land and is registrable under the Land Registration Ordinance (Cap. 128) in the way that the Land Registrar considers appropriate.

8. Charging orders in respect of land, securities, etc.

- (1) The Court of First Instance may make a charging order on realisable property for securing the payment to the Government—
 - (a) where a confiscation order has not been made—of an amount equal to the value from time to time of the property charged; and
 - (b) in any other case—of an amount not exceeding the amount payable under the confiscation order.
- (2) A charging order is an order made under this section imposing on any realisable property that is specified in the order a charge for securing the payment of money to the Government.
- (3) A charge may be imposed by a charging order only on—

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- (i) 屬於第 (4) 款指明的資產類別的；或
 - (ii) 在任何信託形式下持有的；或
 - (b) 由一個人以信託受託人身分持有的任何可變現財產的權益，但須是屬於該資產的，或須是屬於另一個信託下的，而憑藉 (a) 段可以押記令將最先提及的信託之下的全部實益權益作為押記的。
- (4) 第 (3)(a)(i) 款所指的資產類別是以下各種資產類別 ——
- (a) 在香港的土地；
 - (b) 政府證券；
 - (c) 在香港成立的任何公司的股份；
 - (d) 以下描述的、已登記在存放於香港境內的登記冊上的股份：在香港以外成立的公司的股份或在香港以外任何國家或地區的股份；
 - (e) 任何單位信託基金的單位，而單位持有人的登記冊是存放在香港境內的。
- (5) 原訟法庭可規定將就有關資產而交付的利息、股息、其他分發的利益，以及派發的紅利，包括在押記物之內。
- (6) 押記令可按照香港法律註冊及執行。

- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Schedule—
 - (i) in any asset of a kind specified in subsection (4); or
 - (ii) under any trust; or
 - (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge may by virtue of paragraph (a) be imposed by a charging order on the whole beneficial interest under the first-mentioned trust.
- (4) The kind of asset mentioned in subsection (3)(a)(i) is any of the following—
- (a) land in Hong Kong;
 - (b) Government stock;
 - (c) stock of any body incorporated in Hong Kong;
 - (d) stock of any body incorporated outside Hong Kong or of any state or territory outside Hong Kong, being stock registered in a register kept at any place within Hong Kong;
 - (e) units of any unit trust in respect of which a register of the unit holders is kept at any place within Hong Kong.
- (5) The Court of First Instance may provide for the charge to extend to any interest, dividend or other distribution payable and any bonus issue in respect of the asset concerned.
- (6) A charging order is registrable and enforceable in accordance with the laws of Hong Kong.

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9. 沒收令

- (1) 如有以下情況，律政司司長或獲授權人員可向原訟法庭或區域法院提出沒收令申請——
 - (a) 在原訟法庭或區域法院審理的法律程序中，某被告人就某項危害國家安全罪行將會被判刑，而該被告人過去未曾因該項罪行的定罪被判刑；或
 - (b) 已就某項危害國家安全罪行對某被告人提起法律程序，但由於該被告人已死亡或已潛逃，而令該法律程序尚未結束。
- (2) 在第 (1)(a) 款適用的情況下，法庭須先對該被告人判以適當的監禁或拘留期限（如有的話），並發出根據香港法律與判刑有關的適當命令（沒收令除外）。
- (3) 在第 (1)(b) 款適用的情況下，法庭須先信納——
 - (a) 該被告人已死亡；或
 - (b) 該被告人已潛逃 6 個月或以上，而——
 - (i) 如該被告人的確實下落為人所知——已採取合理步驟通知該被告人及使該被告人能解回香港，但不成功；或
 - (ii) 如該被告人的確實下落不為人所知——已採取合理步驟追尋該人的下落並已於在香港普遍行銷的中英文報章各一份刊登致予該被告人的關於該法律程序的通知，並且在考慮向法庭提出的一切有關事項後，法庭亦信納該被告人本可就有關的罪行被定罪。
- (4) 然後法庭須裁定該被告人是否曾經從其被定罪或本可被定罪的危害國家安全罪行中獲利。
- (5) 法庭如裁定該被告人曾經從其被定罪或本可被定罪的危害國家安全罪行中獲利，須釐定出就該被告人的案件憑

9. Confiscation orders

- (1) The Secretary for Justice or an authorized officer may make an application to the Court of First Instance or the District Court for a confiscation order if—
 - (a) in proceedings before the Court of First Instance or the District Court a defendant is to be sentenced in respect of an offence endangering national security and has not previously been sentenced in respect of the defendant's conviction for the offence concerned; or
 - (b) proceedings for an offence endangering national security have been instituted against a defendant but have not been concluded because the defendant has died or absconded.
- (2) Where subsection (1)(a) is applicable, the court must first impose on the defendant such period of imprisonment or detention (if any) as is appropriate and make such order or orders (other than a confiscation order) in relation to sentence as is appropriate in accordance with the laws of Hong Kong.
- (3) Where subsection (1)(b) is applicable, the court must first be satisfied that—
 - (a) the defendant has died; or
 - (b) the defendant has absconded for not less than 6 months, and—
 - (i) if the exact whereabouts of the defendant are known—reasonable steps have been taken to give notice to that defendant and to obtain the return of that defendant to Hong Kong but have been unsuccessful; or

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藉本條須追討的款額。須追討的款額是法庭評定為該被告人所干犯的危害國家安全罪行的得益的價值，但如法庭信納在發出沒收令時變現可得的款額，少於法庭評定為該價值的款額，則法庭可釐定須追討的款額為——

- (a) 法庭覺得在發出沒收令時變現可得的款額；或
 - (b) 在法庭（以其當時得到的資料衡量）覺得變現可得的款額為零的情況下——象徵式款額。
- (6) 法庭釐定出須追討的款額後，須發出沒收令，命令該被告人在訂定期間內繳付該款額。
- (7) 法庭訂定的期間不得超過 6 個月，但如法庭信納情況特殊，有充分理由訂定較長的期間，則不在此限。
- (8) 法庭亦須在沒收令中按照下表訂定一段監禁期，如須繳付的款額沒有在訂定期間內全數妥為繳付，便將該被告人按該段監禁期監禁（下表第 2 欄列出的監禁期，為分別就下表第 1 欄與該監禁期相對之處所列款額可訂定的最高監禁期）。

表

第 1 欄 須繳付的款額	第 2 欄 監禁期
\$200,000 及以下	1 年
\$200,000 以上至 \$500,000	18 個月
\$500,000 以上至 \$1,000,000	2 年
\$1,000,000 以上至 \$2,500,000	3 年
\$2,500,000 以上至 \$10,000,000	5 年
\$10,000,000 以上	10 年

- (9) 法庭每日聆訊完畢後，高等法院或區域法院（視屬何情況而定）的司法常務官，須安排向懲教署署長遞交一份關於

- (ii) if the exact whereabouts of the defendant are not known—reasonable steps have been taken to ascertain the defendant's whereabouts and notice of those proceedings, addressed to that defendant, has been published in a Chinese language newspaper, and an English language newspaper, circulating generally in Hong Kong,

and the court, having regard to all relevant matters before it, is also satisfied that the defendant could have been convicted in respect of the offence concerned.

- (4) The court must then determine whether the defendant has benefited from the offence endangering national security of which the defendant is convicted or could have been convicted.
- (5) If the court determines that the defendant has benefited from the offence endangering national security of which the defendant is convicted or could have been convicted, the court must determine the amount to be recovered in the defendant's case by virtue of this section. The amount to be recovered is the amount the court assesses to be the value of the defendant's proceeds of the offence endangering national security which the defendant has committed, but if the court is satisfied that the amount that might be realized at the time the confiscation order is made is less than the amount the court assesses to be such value, the court may determine the amount to be recovered to be—
- (a) the amount appearing to the court to be so realized; or
 - (b) if it appears to the court (on the information available to it at the time) that the amount that might be so realized is nil—a nominal amount.

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根據本條訂定的每項監禁期限的證明書，使懲教署署長執行根據本條對該被告人所訂定的監禁期限。

- (10) 獲授權人員或該被告人可就沒收令申請向法庭提交陳述書，陳述任何與申請相關的事情。
- (11) 根據沒收令須追討的款額，須視為根據香港法律的判定債項，並可據此累算利息。為執行的目的，利息的款額須視為根據沒收令須向被告人追討的款額的一部分。

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- (6) After determining the amount to be recovered, the court must then make a confiscation order, ordering the defendant to pay that amount within a fixed period.
- (7) The court must not fix a period longer than 6 months unless it is satisfied that there are special circumstances which justify it doing so.
- (8) The court must also in the confiscation order fix a term of imprisonment, in accordance with the following Table, which the defendant is to serve if any of that amount is not duly paid within that period (the terms of imprisonment set out in column 2 of the Table are the maximum terms of imprisonment applicable respectively to the amounts set out in column 1 of the Table opposite to the terms).

Table

Column 1	Column 2
Amount payable	Term of imprisonment
An amount not exceeding \$200,000	1 year
An amount exceeding \$200,000 but not exceeding \$500,000	18 months
An amount exceeding \$500,000 but not exceeding \$1,000,000	2 years
An amount exceeding \$1,000,000 but not exceeding \$2,500,000	3 years
An amount exceeding \$2,500,000 but not exceeding \$10,000,000	5 years
An amount exceeding \$10,000,000	10 years

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10. 沒收令的更改

- (1) 獲授權人員或被告人 (或在被告人已死亡的情況下，其遺產代理人) 可就沒收令提出更改申請。如原訟法庭信納有關可變現財產不足以清償根據該沒收令尚須追討的餘額，須發出命令以法庭認為就有關個案的整體情況而言屬公平的較低款額替代，及按照本附表第 9(8) 條定出較短監禁期替代。
- (2) 獲授權人員可就沒收令提出更改申請。如原訟法庭信納以下條件符合——
 - (a) 被告人從任何危害國家安全罪行的得益的價值，大於原訟法庭或區域法院 (視屬何情況而定) 在發出沒收令時所評計的被告人從該罪行的得益的價值；
 - (b) 獲授權人員發覺有可變現財產，而該人員在沒收令發出時是不知道該財產存在的；或

- (9) At the end of each day's sitting of the court, the Registrar of the High Court or the District Court (as the case may be) must cause to be delivered to the Commissioner of Correctional Services a certificate in respect of each term of imprisonment fixed under this section for the Commissioner to carry into effect the term of imprisonment fixed under this section in respect of that defendant.
- (10) An authorized officer or the defendant may, in respect of an application for confiscation order, tender to the court a statement of matters relevant to the application.
- (11) The amount to be recovered under a confiscation order is to be treated as a judgment debt under the laws of Hong Kong, and as such, interest may accrue, and the amount of the interest is to be treated, for the purposes of enforcement, as part of the amount to be recovered from the defendant under the confiscation order.

10. Variation of confiscation orders

- (1) An authorized officer or the defendant (or, in the case of a defendant who has died, the defendant's personal representative) may make an application for variation in respect of a confiscation order. If the Court of First Instance is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the confiscation order, it must make an order that such lesser amount as the court thinks just in all the circumstances of the case be substituted, and that a shorter term fixed in accordance with section 9(8) of this Schedule be substituted.
- (2) An authorized officer may make an application for variation in respect of a confiscation order. If the Court of First Instance is satisfied that—

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(c) 將被告人從該罪行的得益變現後，所得的款額大於原訟法庭或區域法院（視屬何情況而定）所評計的根據沒收令須追討的款額，

法庭須發出命令以法庭認為就有關個案的整體情況而言屬公平的較高款額替代，及按照本附表第 9(8) 條定出較長監禁期替代。

(a) the value of the defendant's proceeds of any offence endangering national security was greater than the value of the defendant's proceeds of the offence assessed by the Court of First Instance or the District Court, as the case may be, at the time of the making of the confiscation order;

(b) an authorized officer becomes aware of realisable property, the existence of which was not known to the officer at the time of the making of the confiscation order; or

(c) the amount realized from the defendant's proceeds of that offence is greater than the amount the Court of First Instance or the District Court, as the case may be, assessed to be the amount to be recovered under the confiscation order,

the court must make an order that such greater amount as the court thinks just in all the circumstances of the case be substituted, and that a greater term fixed in accordance with section 9(8) of this Schedule be substituted.

11. 財產的變現及運用

- (1) 為執行任何已發出的沒收令，原訟法庭可委任接管人，接管可變現財產，並命令或授權其行使與《有組織及嚴重罪行條例》(第 455 章)第 17 條相類（經加以必要的變通後）的權力。
- (2) 原訟法庭、高等法院或區域法院（視屬何情況而定）的司法常務官及接管人，具有與《有組織及嚴重罪行條例》(第 455 章)第 18、19 及 24 條相類（經加以必要的變通後）的權力，責任和保障。

11. Realisation of property and application

- (1) For the purposes of enforcing any confiscation order that has been made, the Court of First Instance may appoint a receiver in respect of realisable property, and order or empower the receiver to exercise the powers similar to those under section 17 of the Organized and Serious Crimes Ordinance (Cap. 455) (with the necessary modifications).
- (2) The Court of First Instance, the Registrar of the High Court or the District Court (as the case may be) and the receiver have the powers, obligations and protection similar to those under

12. 被告人破產及其他可變現財產持有公司的清盤

(1) 凡有以下情況——

- (a) 持有可變現財產的人被裁定破產；或
- (b) 一間公司持有可變現財產，而清盤命令已就該公司發出或該公司已通過決議自動清盤，

則《有組織及嚴重罪行條例》(第 455 章)第 21、22 及 23 條的規定經加以必要的變通後須予適用。

- (2) 該等條文內對限制令、押記令及沒收令及相關條文的提述，須理解為提述本附表所訂的限制令、押記令及沒收令及相關條文。

13. 充公罪行相關財產

- (1) 原訟法庭如應律政司司長或其代表提出的申請而信納該項申請所指明的任何財產——

- (a) 是本附表第 1(1) 條中**罪行相關財產**的定義的 (a) 段所述的罪行相關財產，並且——

- (i) 全部或部分、直接或間接代表因危害國家安全罪行而產生的任何得益；
- (ii) 擬用於資助或以其他方式協助干犯危害國家安全罪行；或

sections 18, 19 and 24 of the Organized and Serious Crimes Ordinance (Cap. 455) (with the necessary modifications).

12. Bankruptcy of defendant and winding up of company holding other realisable property

(1) Where—

- (a) a person who holds realisable property is adjudged bankrupt; or
- (b) realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for voluntary winding up,

the provisions under sections 21, 22 and 23 of the Organized and Serious Crimes Ordinance (Cap. 455) apply with the necessary modifications.

- (2) The references in those provisions to restraint order, charging order and confiscation order and relevant provisions are to be understood as references to restraint order, charging order and confiscation order and relevant provisions in this Schedule.

13. Forfeiture of offence related property

- (1) The Court of First Instance may, if satisfied on an application made by or on behalf of the Secretary for Justice that any property specified in the application is offence related property—

- (a) mentioned in paragraph (a) of the definition of **offence related property** in section 1(1) of this Schedule and which also—

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- (iii) 曾用於資助或以其他方式協助干犯危害國家安全罪行；或
- (b) 是本附表第 1(1) 條中**罪行相關財產**的定義的 (b) 段所述的罪行相關財產，
可在符合第 (2) 款的規定下命令將該財產充公。
- (2) 凡原訟法庭根據第 (1) 款就任何財產作出命令，原訟法庭須在該命令中指明，該財產中有多少（如有的話）是原訟法庭不信納是該款所述的財產。
- (3) 不論是否有針對任何人就任何與有關財產相關的罪行而提起法律程序，原訟法庭均可根據本條作出命令。
- (4) 就根據本條而提出的申請而言，舉證準則須為適用於在法庭進行的民事法律程序的舉證準則。

14. 賠償

- (1) 如在對任何人就危害國家安全罪行展開偵查之後，有以下任何一種情況出現——
- (a) 沒有對該人提起法律程序；

- (i) in whole or in part directly or indirectly represents any proceeds arising from an offence endangering national security;
- (ii) is intended to be used to finance or otherwise assist the commission of an offence endangering national security; or
- (iii) was used to finance or otherwise assist the commission of an offence endangering national security; or
- (b) mentioned in paragraph (b) of the definition of **offence related property** in section 1(1) of this Schedule, order, subject to subsection (2), the forfeiture of the property.
- (2) Where the Court of First Instance makes an order under subsection (1) in respect of any property, the Court of First Instance must specify in the order so much, if any, of the property in respect of which the Court of First Instance is not satisfied as mentioned in that subsection.
- (3) An order may be made under this section whether or not proceedings are instituted against any person for an offence with which the property concerned is connected.
- (4) The standard of proof on an application under this section is the standard of proof applicable to civil proceedings in a court of law.

14. Compensation

- (1) If an investigation is begun against a person for an offence endangering national security and any of the following circumstances occurs, namely—
- (a) no proceedings are instituted against that person;

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- (b) 曾對該人提起法律程序，但結果並無就任何危害國家安全罪行將該人定罪；
- (c) 當對該人提起法律程序後該人潛逃，其後——
- (i) 該人不再是潛逃者；及
- (ii) 發生以下其中一種情況——
- (A) 法律程序繼續或再提起，但結果並無就任何危害國家安全罪行將該人定罪；或
- (B) 在律政司司長知道該人不再是潛逃者之後的合理時間內，法律程序並沒有繼續或再提起；
- (d) 曾對該人提起法律程序，而該人就某項危害國家安全罪行被定罪，但——
- (i) 有關的定罪被推翻；或
- (ii) 該人被赦免有關的定罪，
- 則原訟法庭如在考慮整體情況後認為適宜，可應曾持有可變現財產的人（或在該人已死亡的情況下，其遺產代理人）的申請，命令特區政府對申請人作出賠償。
- (2) 原訟法庭除非信納有以下情況，否則不得根據第 (1) 款命令作出賠償——
- (a) 參與調查或檢控有關罪行的任何人曾犯嚴重錯失；及
- (b) 因遵照或依據原訟法庭根據本附表發出的命令而就有關財產所作出的任何行動，已引致申請人蒙受損失。
- (3) 在參與調查或檢控有關罪行的任何人曾犯嚴重錯失的情況下，如原訟法庭覺得假若該嚴重錯失沒有發生，偵查便會繼續，或法律程序便會提起或繼續，原訟法庭不得根據第 (1) 款命令作出賠償。

- (b) proceedings are instituted against that person but do not result in that person's conviction for any offence endangering national security;
- (c) that person absconds after proceedings are instituted against that person and subsequently—
- (i) ceases to be an absconder; and
- (ii) either—
- (A) those proceedings are continued or reinstated but do not result in that person's conviction for any offence endangering national security; or
- (B) those proceedings are not continued or reinstated within a reasonable period after it is known to the Secretary for Justice that that person has ceased to be an absconder;
- (d) proceedings are instituted against that person and that person is convicted of an offence endangering national security, but—
- (i) the conviction concerned is quashed; or
- (ii) that person is granted a pardon in respect of the conviction concerned,

the Court of First Instance may, on application by a person who held property which was realisable property (or, in the case of such a person who has died, the personal representative of such a person), order compensation to be paid by the Government to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

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- (4) 在不影響第 (1) 款的施行的情況下，凡 ——
- (a) 任何人按照本附表第 5(2) 條就任何財產作出披露；
 - (b) 由於該項披露，及為了對危害國家安全罪行作出偵查或提起檢控，就該財產作出任何作為或不作為；及
 - (c) 沒有就該項罪行對任何人提起法律程序，或原訟法庭並沒有就該財產發出限制令或押記令，
- 則原訟法庭如在考慮整體情況後認為適宜，可應曾持有該財產的人的申請，命令特區政府對申請人作出賠償。
- (5) 原訟法庭除非信納有以下情況，否則不得根據第 (4) 款命令作出賠償 ——
- (a) 參與調查或檢控有關罪行的任何人曾犯嚴重錯失，而如無該錯失，第 (4)(b) 款提述的作為或不作為便不會發生；及
 - (b) 第 (4)(b) 款提述的作為或不作為已引致申請人在該財產方面蒙受損失。
- (6) 在符合第 (7) 款的規定下，凡某財產已不再在本附表第 3(1) 條所指的通知內被指明，則如任何持有曾被如此指明的財產的人，或任何由他人為之或代表持有曾被如此指明的財產的人提出申請，原訟法庭如在考慮整體情況後認為適宜，可應該項申請命令特區政府向申請人作出賠償。
- (7) 原訟法庭除非信納有以下情況，否則不得根據第 (6) 款命令作出賠償 ——
- (a) 在有關財產在本附表第 3(1) 條所指的通知內被指明的任何時間，該財產均不是罪行相關財產；
 - (b) 任何涉及取得本附表第 3(1) 條所指的有關指明的人曾犯錯失；及

- (2) The Court of First Instance must not order compensation to be paid under subsection (1) unless it is satisfied—
- (a) that there has been some serious default on the part of any person concerned in the investigation or prosecution of the offence concerned; and
 - (b) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of an order of the Court of First Instance under this Schedule.
- (3) The Court of First Instance must not order compensation to be paid under subsection (1) in any case where it appears to the Court of First Instance that the investigation would have been continued, or the proceedings would have been instituted or continued if the serious default had not occurred.
- (4) Without prejudice to subsection (1), where—
- (a) a disclosure is made by any person in accordance with section 5(2) of this Schedule in relation to any property;
 - (b) in consequence of the disclosure and for the purposes of an investigation or prosecution in respect of an offence endangering national security any act is done or omitted to be done in relation to that property; and
 - (c) no proceedings are instituted against any person in respect of that offence or no restraint order or charging order is made by the Court of First Instance in relation to that property,
- the Court of First Instance may, on application by a person who held the property, order compensation to be paid by the Government to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

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- (c) 申請人已由於 (b) 段所述的有關指明及錯失而蒙受損失。
- (8) 根據本條須付的賠償額，為原訟法庭認為就有關個案的整體情況而言屬公平的款額。

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- (5) The Court of First Instance must not order compensation to be paid under subsection (4) unless it is satisfied—
- (a) that there has been some serious default on the part of any person concerned in the investigation or prosecution of the offence concerned and that, but for that default, the act or omission referred to in subsection (4)(b) would not have occurred; and
- (b) that the applicant has, in consequence of the act or omission referred to in subsection (4)(b), suffered loss in relation to the property.
- (6) Subject to subsection (7), where property has ceased to be specified in a notice under section 3(1) of this Schedule, then the Court of First Instance may, on application by any person by, for or on behalf of whom the property that was so specified is held, order compensation to be paid by the Government to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.
- (7) The Court of First Instance must not order compensation to be paid under subsection (6) unless it is satisfied—
- (a) that at no time when the property was specified in a notice under section 3(1) of this Schedule was the offence related property;
- (b) that there has been some default on the part of any person concerned in obtaining the relevant specification under section 3(1) of this Schedule; and
- (c) that the applicant has, in consequence of the relevant specification and the default mentioned in paragraph (b), suffered loss.

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15. 法院規則

適用於根據本附表作出的任何申請的法院規則，可參照香港法律中適用於類似申請的法院規則（尤其是根據《有組織及嚴重罪行條例》（第 455 章）第 30 條及《聯合國（反恐怖主義措施）條例》（第 575 章）第 20 條訂立的高等法院規則）而加以必要的變通。

15. Rules of court

For the rules of court applicable to any application made under this Schedule, reference may be made to the rules of court applicable to similar applications under the laws of Hong Kong (in particular, the Rules of the High Court made under section 30 of the Organized and Serious Crimes Ordinance (Cap. 455) and section 20 of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)) with the necessary modifications.