

**GUIDELINES ON ACTIONS TO BE TAKEN BY COMPETENT
AUTHORITIES FOR IMPLEMENTATION OF UNITED
NATIONS SECURITY COUNCIL RESOLUTION -1373**



NATIONAL COUNTER TERRORISM AUTHORITY

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1. INTRODUCTION:

These Guidelines are issued by National Counter Terrorism Authority (NACTA) for the relevant authorities in various divisions, ministries, agencies, reporting entities, organizations, financial institutions and DNFPBs across Pakistan on the implementation of United Nations Security Council Resolution (UNSCR) 1373. The objective of these Guidelines is to ensure better understanding of the provisions of UNSCR 1373 and the national legal framework related to its implementation. The Guidelines aim to foster a common understanding that each relevant department, agency and reporting entity has an obligation for implementation of UNSCR 1373 as envisaged in the Resolution. Like all other countries, Pakistan is under legal obligation to implement the UNSCR 1373, on account of being a responsible member of the United Nations.

The Guidelines have been designed to assist officials from all relevant financial and other institutions to understand the steps to be undertaken for effective implementation of the UNSCR 1373. The Guidelines focus on international obligations to give effect to UNSCR 1373 and the FATF requirements in relation to its implementation. The nature and scope of these obligations, the national legal framework empowering agencies to take actions for compliance, the coordination and communication arrangements and the specific actions required by each department, agency and reporting entity, are being discussed in these Guidelines. The Guidelines can be used to raise awareness amongst the officials in each relevant department, agency, institutions, reporting entity, or organization concerning the actions required to implement the notifications issued by the Ministry of Interior or Provincial Home Departments to give effect to UNSCR 1373 with respect to proscribed organizations and proscribed persons, respectively.

2. WHAT THE AUTHORITIES SHALL LEARN AFTER READING THESE GUIDELINES:

a)	understand why Pakistan is required to act upon UNSCR 1373
b)	know their responsibilities in implementing UNSCR 1373
c)	understand application of national legislation that empowers authorities to implement the Resolution
d)	ensure that administrative arrangements are in place for implementing UNSCR 1373
e)	achieve necessary awareness on the reporting obligations of the respective departments, reporting entities and organizations on UNSCR 1373.

3. OPERATIONAL CAPACITY OF THE INSTITUTIONS IN IMPLEMENTING UNSCR 1373:

The Guidelines provide necessary information in order to assist or strengthen the capacity of government agencies and other organizations or reporting entities through increased knowledge of what is required for effective implementation of UNSCR 1373. The officials may identify additional capacity building requirements for their relevant agency

during the course of implementation of the provisions of requisite notifications and other legislative obligations. The need analysis should be reported to Financial Monitoring Unit, AML/CFT Regulatory Authorities, Ministry of Interior, NACTA or Provincial Home Departments, which may assist agencies to identify bilateral or multilateral opportunities for technical assistance in order to build the required capacity within the relevant departments, institutions and organizations in Pakistan. The authorities, reporting entities and organizations are also obliged to take necessary measures at their own in this regard.

4. DEFINITIONS:

The following definitions of Anti-Terrorism Act, 1997 may specifically apply in these Guidelines:

- a) **Freeze** means to prohibit the transfer, conversion, disposition or movement of any money or other property.
- b) **Government** means the Federal Government or the Provincial Government, as the case may be.
- c) **Money** includes coins or notes in any currency, postal orders, money orders, bank credits, bank accounts, letter of credit, travelers' cheques, bank cheques, bankers draft, in any form, electronic digital or otherwise and such other kinds of monetary instruments or documents as the Federal Government may by order specify.
- d) **Seize** means to take custody or control of money or other property in order to prohibit its transfer, conversion, disposition or movement.
- e) **Property** means property of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes shares, securities, bonds and deeds and instruments evidencing title to, or an interest in, property of any kind and money.
- f) **Terrorist Property** means: -
 - (i) (a) money or other property, which is used or is likely to be used for the purposes of terrorism (including any resources of an organization concerned in terrorism or a terrorist);
 - (b) proceeds of the commission of acts of terrorism;
 - (c) proceeds of acts carried out for the purposes of terrorism; and
 - (ii) In sub-section (i) above;
 - (a) a reference to proceeds of an act, includes reference to any property, which wholly or partly, and directly or indirectly represents the proceeds of the act (including payments of other rewards in connection with the commission); and
 - (b) the reference to an organization's resources includes a reference to any money or other property, which is applied or made available, or is to be applied or made available, for use by the organization and includes assets of any kind, whether tangible or intangible, movable or immovable, and

legal documents or instruments in any form, whether written, electronic or digital, and shares, securities, bonds, drafts and letters of credit.

- g) **Proscribed Organization** means any organization which is listed on the First Schedule under section 11B of the ATA.
- h) **Proscribed Person** means any individual who is listed on the Fourth Schedule under section 11EE of the ATA.

5. THE UNITED NATIONS SECURITY COUNCIL:

Under the Charter of United Nations, the UN Security Council has primary responsibility for the maintenance of international peace and security. All Member States are obligated to comply with the Security Council decisions. The Security Council takes the lead in determining the existence of a threat to the peace or act of aggression. It calls upon the Parties to a dispute to settle it by peaceful means and recommends methods of adjustment or terms of settlement. The United Nations Security Council resolutions are formal expressions of the opinion or will of the members of the United Nations Security Council. They generally consist of two clearly defined sections; a) preamble part, and b) operative part. The preambular paragraphs generally present the considerations on the basis of which certain actions are taken, an opinion is expressed or a directive is given – provide background and set the scene for the operative part of the resolution. The operative paragraphs, on the other hand, state the opinion of the Security Council or the action to be taken by UNSC Committees or the UN Member States.

6. BRIEF OVERVIEW OF INTERNATIONAL SANCTIONS REGIME:

(a) International Convention for Suppression of the Financing of Terrorism:

This Convention, adopted by the General Assembly of United Nations in Resolution 54/109 of 9th December, 1999 and ratified by Pakistan provides that¹:

“Any person commits an offence within the meaning of the Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

- (i) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the Convention; or
- (ii) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.”

¹ International Convention for the Suppression of the Financing of Terrorism 1999
<http://www.un.org/law/cod/finterr.htm>

The Convention further provides that each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in the Convention. Each State Party shall further ensure that legal entities liable as above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

(b) United Nations Security Council Resolution (UNSCR) 1267:

The United Nations sanctions regime against designated persons and organizations was first established by Resolution UNSCR 1267 (1999) by imposing a number of measures against Al-Qaida and its associated individuals and entities. This sanctions regime has further been strengthened through a number of subsequent resolutions. The measures required to be implemented by states in accordance with these resolutions include **asset freeze, travel ban and arms embargo** in respect of individuals designated by the UNSC 1267 Sanctions Committee. The resolutions further provide procedures for listing and de-listing of individuals, access to funds for basic and extraordinary expenses, protection of rights of third parties, amongst other issues.

(c) United Nations Security Council Resolution (UNSCR) 1373:

In the wake of September 11, 2001 terrorist attacks, United Nations Security Council further reinforced its sanctions regime by adopting UNSCR 1373 (2001), which requires countries, *inter alia*, to put into place mechanisms enabling the **designation of terrorist organizations and persons associated with terrorism at the national level and the consequent application of immediate sanctions**.

(d) FATF Recommendations:

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.

Recommendation 6: Countries should implement targeted financial sanctions regimes to comply with United Nations Security Council resolutions relating to the prevention and 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

- (i) 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

(ii) designated by that country pursuant to resolution 1373 (2001).

7. The UNITED NATIONS SECURITY RESOLUTION 1373:

The United Nations Security Resolution 1373 provides that all States shall²:

- i. **Prevent and suppress** the financing of terrorist acts;
- ii. **Criminalize** the willful 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 carry out terrorist acts;
- iii. **Freeze without delay** funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;
- iv. **Prohibit** their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

Note: This Resolution gives Member States authority to designate the persons and entities that should have their assets frozen. These proscriptions are made by states and not by the United Nations Security or its 1267 Committee.

8. PAKISTAN'S LEGAL FRAMEWORK FOR IMPLEMENTATION FOR UNSCR 1373:

In order to combat terrorist financing and fulfill its obligations under UNSCR 1373, Pakistan relies on a number of legal provisions contained in the Anti-Terrorism Act, 1997. These provisions vary from proscription of organizations and persons, freezing and seizure of assets, etc., to criminalizing different forms of terrorist financing and other required measures.

Anti-Terrorism Act, 1997 under 6(7), 11F (5) & (6), 11H, 11I, 11J, 11K and 11N criminalize the offence of terrorist financing and specific provisions 11B, 11C, 11CC, 11D, 11E, 11EE, 11O, 11OO, 11P and 11Q are concerning procedures for implementation of UNSCR 1373.

² https://www.unodc.org/pdf/crime/terrorism/res_1373_english.pdf

(a) Criminalize Financing of Terrorism:

The UNSCR 1373 requires Member States to criminalize the financing of terrorism as an offence under the domestic laws. Pakistan has already criminalized all possible terrorist financing offences in the Ant-Terrorism Act, 1997. All these offences have also been included in the list of predicate offences in the Anti- Money Laundering Act, 2010. The basic content of various provisions in the ATA, 1997 for the purpose is summarized as under;

S. No.	Section of ATA, 1997	Subject	Provision
1.	2	Person	“Person” means any natural or legal person or body corporate
2.	6	Terrorism	“Terrorist” includes any person who has been concerned in the commission, preparation, facilitation, funding or instigation of acts of terrorism;
3.	11F (5)	Fundraising	A person commits an offence if he solicits, collects or raises money or other property for a proscribed organization.
4.	11F (6)	Punishment for 11F (5)	A person guilty of an offence under sections 11F (5) shall be liable on conviction to a term of imprisonment, not less than one year and not more than five years and a fine.
5.	11-H	Fundraising	<ul style="list-style-type: none">• A person commits an offence if he invites another to provide money or other property, and intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism.• A person commits an offence if he receives money or other property, and intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism.• A person commits an offence if he provides money or other property; and knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.
6.	11-I	Use/ Possession of Money or	A person commits an offence if (a) he uses money or other property for the purposes of terrorism; or (b) possesses money or other property and

		Property	intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
7.	11-J	Funding Arrangements/ Prohibition of Funding	<ul style="list-style-type: none"> • A person commits an offence if he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another; and has reasonable cause to suspect that it will or may be used for the purposes of terrorism. • A person commits an offence if he knowingly or willfully pays for or provides money or other property or facilitates in any manner the travel of a person anywhere for the purpose of perpetrating, participating in, assisting or preparing for a terrorist act or for the purpose of providing or receiving training for terrorist related activities. • Any person in Pakistan or a Pakistani national outside Pakistan shall commit an offence under ATA, if he knowingly or willfully makes money or other property or services available, directly or indirectly, wholly or jointly, for the benefit of a proscribed organization or proscribed person. • These provisions are also applicable to <ul style="list-style-type: none"> (a) Organizations owned or controlled, directly or indirectly, by proscribed organizations or proscribed persons; (b) Persons or organizations acting on behalf of, or at the direction of, proscribed organizations or proscribed persons”.
8.	11-K	Money Laundering	A person commits an offence if he enters into or becomes concerned in any arrangement which facilitates the retention or control, by or on behalf of another person, of terrorist property by concealment, by removal from the jurisdiction, by transfer to nominees, or in any other way.
9.	11-N	Punishment under Sections 11H to 11K	<ul style="list-style-type: none"> • Any person who commits an offence under sections 11H to 11K, shall be punishable on conviction with imprisonment for a term not

			<p>less than five years and not exceeding ten years and with fine not exceeding 25 Million rupees.</p> <ul style="list-style-type: none"> • If a legal person commits an offence under sections 11H to 11K such person shall be liable on conviction to <ul style="list-style-type: none"> ○ A fine not exceeding fifty million rupees. ○ Every director, officer or employee of such legal person found guilty shall be punishable on conviction with imprisonment for a term not less than five years and not exceeding ten years and with fine not exceeding twenty-five million rupees. ○ Provided that the punishment of the director, officer or employee shall be effective and in due proportion to his role.
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Note: For exact language of the provisions, please see ATA,1997.

(b) Freezing and Confiscation Provisions of ATA:

The UNSCR 1373 requires all states to **freeze without delay funds and other financial assets or economic resources** of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities.;

The Financial Action Task Force under its definition section provides that the phrase ‘**without delay**’ means, ideally, within a matter of hours of a designation by United Nations Security Council (e.g. the 1267 Committee)³. For the purposes of UNSCR 1373(2001) as well, the phrase **without delay** should be interpreted in the context of the need to prevent the flight or dissipation of funds or other assets which are linked to terrorists, terrorist organizations, those who finance terrorism, and to the financing of proliferation of weapons of mass destruction, and the need for global, concerted action to interdict and disrupt their flow swiftly. Hence, the freezing actions to take place within a matter of hours of the proscription notifications.

Anti-Terrorism Act 1997 under section 11B, 11E, 11EE, 11EEEE, 11O, 11OO and 11P empower Pakistan’s implementing agencies to freeze and confiscate terrorist assets, provisional measures and confiscation, which are required under UNSCR 1373.

S. No	Section of ATA 1997	Subject	Provision
1.	11B	Proscription of Organization	The Federal Government may list an organization as a proscribed organization in the First Schedule if there are reasonable grounds to believe that it is (a) concerned in terrorism; or (b) owned or controlled, directly or indirectly, by any individual or organization proscribed under ATA, 1997; or (c) acting on behalf of, or at the direction of, any individual or organization proscribed under ATA, 1997.
2.	11E	Measures to be taken against a Proscribed Organization	<ul style="list-style-type: none"> • Where any organization is proscribed, amongst other measures to be taken by Federal Government-, <ul style="list-style-type: none"> ○ its offices, if any, shall be sealed. ○ All literature, posters, banner, or printed, electronic, digital or other material shall be seized; and ○ publication, printing or dissemination of any press statements, press conferences or public utterances by or on behalf of or in support of a proscribed organization shall be prohibited. • The office bearers, activists, or the members or the associates of the proscribed organization may be liable to- <ul style="list-style-type: none"> ○ shall not be issued any passport or allowed to travel abroad; ○ no bank or financial institution or any other entity providing financial support shall provide any loan facility or financial support to such persons or issue the credit cards to such persons; ○ arms licenses, if already issued, shall be deemed to have been cancelled and the arms shall be deposited forthwith in the nearest police station. No fresh license to such persons for any kind of weapons shall be issued. • The Proscribed Organization shall submit all accounts of its income and expenditure for its

			political and social welfare activities and disclose all funding sources to the competent authority designated by Federal Government.
3.	11EEEEEE	Prohibition on Disposal of Property	<ul style="list-style-type: none"> • If during the course of investigation, the police officer or Joint Investigation Team has sufficient evidence to believe that any property, which is subject matter of investigation is likely to be removed transferred or otherwise disposed, such officer or the team may direct the owner or any person who is, for the time being, in possession thereof not to remove, transfer or otherwise dispose of such property before an order of appropriate authority for its seizure is obtained. • Any contravention of the order shall be punishable with rigorous imprisonment which may extend to two years, or with fine, or with both.
4.	11EE	Proscription of Person	<ul style="list-style-type: none"> • The Provincial Government may list a person as a proscribed person in the Fourth Schedule of ATA, 1997 if there are reasonable grounds to believe that such person is (a) concerned in terrorism; (b) an activist, office bearer or an associate of an organization kept under observation under section 11D or proscribed under section 11B, and (c) in any way concerned or suspected to be concerned with such organization or affiliated with any group or organization suspected to be involved in terrorism or sectarianism or acting on behalf of, or at the direction of, any person or organization proscribed under the ATA, 1997. • No bank or financial institution or any other entity providing financial support shall provide any loan facility or financial support to proscribed person or issue credit cards to proscribed person • The arms licenses, if already issued, shall be deemed to have been cancelled and the arms shall be deposited forthwith in the nearest Police Station, failing which such arms shall be confiscated and the holder of such arms shall be

			<p>liable for the punishment provided under the Pakistan Arms Ordinance, 1965.</p> <ul style="list-style-type: none"> • No fresh license shall be issued to such person for any kind of weapons. • The assets of such persons or their immediate family members i.e. parents, spouse(s) and children shall be checked and probed through police or any other Government agency, which shall exercise the powers as are available to it under the relevant law for the purposes of the investigation, to ascertain whether assets and sources of income are legitimate and are being spent on lawful objective. • Any person, who violates the order or any terms of bond in sub-section (2) of section 11EE, shall be punishable with imprisonment of either description for a term, which may extend to three years, or with fine, or with both.
5.	11O	Seizure, Freeze and Detention	<ul style="list-style-type: none"> • On proscription made under section 11B or 11EE— <ul style="list-style-type: none"> (a) the money or other property owned or controlled, wholly or jointly, directly or indirectly, by a proscribed organization or proscribed person shall be frozen or seized, as the case may be, without any prior notice and without delay (b) the money or other property derived or generated from any aforementioned property shall be frozen or seized, as the case may be without any prior notice and without delay (c) no person shall use, transfer, convert, dispose of or remove such money or other property with effect from proscription; (d) within forty-eight hours of any freeze or seizure, the person carrying out the freeze or seizure or any action under clause (c) shall set out the steps taken to ensure that no money, property or services are made available, directly or indirectly, wholly or jointly for the benefit of the proscribed organization or person and shall submit a report containing details of the property and the persons

			<p>affected by the freeze or seizure to such office of the Federal Government or Provincial Government as may be notified in the official Gazette;</p> <p>(e) the money or other property of any person acting on behalf of, or at the direction of, proscribed persons or organizations shall be frozen or seized, as the case may be, without any prior notice and without delay.</p> <ul style="list-style-type: none"> • Any natural person not connected with a legal person or body cooperate who violates any provision of sub-section (1) of section 110 shall be liable on conviction to a term not exceeding ten years or with fine not exceeding twenty-five million rupees or with both. • If a legal person or body cooperate commits an offence under sub section (1), such person or body corporate shall be liable on convictions to fine not exceeding fifty million rupees and every director, officer or employees of such person found guilty of the violation shall be liable on conviction to a term not exceeding ten years or with fine not exceeding twenty-five million rupees or with both. • Notwithstanding anything contained in sub-section (2) of section 110, if any public servant is found negligent in complying with the provision of sub-section (1), such public servant shall be proceeded against under respective service rules for administrative action. • On an application made by any affected person, the Federal Government shall inquire into the ownership and control of any money or other property that has been frozen or seized and, if it is satisfied that the money or other property has wrongly been frozen or seized, the same shall be ordered to be released immediately. • No prosecution, suit or other proceedings shall lie against the government or any other person complying or purporting to comply with sub-section (1) for anything done in good faith to effect freeze seizure.
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6.	1100	Access to Services, Money or other Property	<ul style="list-style-type: none"> • The Federal Government or Provincial Home Departments through the delegated powers. as the case may be, may permit a person to make available to a proscribed organization or proscribed person such services, money or other property as may be prescribed. • This includes such money as may be required for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources or such money as may be required for meeting extraordinary expenses, and such person shall not be liable for an offence under this Act on account of provision of the prescribed services, money or other property.
7.	11P	Attachment of Terrorist Property	<ul style="list-style-type: none"> • An investigating officer may apply to a court for an order for attachment of a terrorist property. • Any cash attached under this section shall be held in a profit and loss account and the profit and loss so earned shall be added to it on its release or forfeiture.
8.	11Q	Forfeiture of Money or Property	<ul style="list-style-type: none"> • The Court by or before which a person is convicted of an offence under any of the sections 11H to 11M may make forfeiture order in accordance with the provision of this section. • Where a person is convicted of an offence under any of the sections 11H to 11K, the Court may order forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence. Provided that in case of a jointly owned property, the shares of a person in the said property who is not convicted, shall not be subject to such order of forfeiture.

			<ul style="list-style-type: none"> Where the court is satisfied that property subject to forfeiture under this section cannot be forfeited, it may order the forfeiture of any other property of the accused of an equivalent value to the property subject to forfeiture which stands identified or located in another jurisdiction.”.
9.	11R	Evidentiary Standard for Forfeiture	<ul style="list-style-type: none"> The court may pass an order for forfeiture under section 11Q upon conviction and only if satisfied on reasonable grounds that the money or other property is a terrorist property and before so doing must give an opportunity to be heard to any person, — <ul style="list-style-type: none"> (a) who is not a party to the proceedings; and (b) who claims to be the owner of or otherwise interested in any of the money or other property which can be forfeited under this section. <p>An order may be made under section 11Q, whether or not proceedings are brought against all the persons for an offence with which the money or other property is connected.</p>
10.	11U	De-Proscription	<ul style="list-style-type: none"> The Federal Government, or provincial Home Department, as the case may be, may, by notification in the official Gazette, at any time remove any organization or person from the First Schedule or Fourth Schedule, as the case may be, on the basis that no reasonable ground for proscription exists. After three years of the disposal of appeal, if any, or where no appeal was filed, from the date of the order of proscription, or from the date of any refusal of an application of de-proscription, - <ul style="list-style-type: none"> Federal Government and Provincial Home Departments shall conduct review of the proscriptions to determine whether any proscription may be cancelled on the basis provided for under sub-section (1); and until a proscription is cancelled. any money or other property frozen or seized on account of the proscription shall remain frozen or seized, as the case may be.

			<ul style="list-style-type: none"> ○ on cancellation or the proscription under this Act, any money or other property frozen or seized shall be released in a timely manner.
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Note: For exact and complete language, please see ATA, 1997.

9. PROCEDURE FOR IMPLEMENTATION OF UNSCR 1373:

The detailed step-wise procedures under ATA, 1997 starting from proscription to freezing and seizure of assets in order to ensure compliance with UNSCR 1373 are given as under:

(a) Proscription Notifications:

i. Organizations:

The Competent Authority to notify an organization as a proscribed organization is the Ministry of Interior (MoI). The MoI may include an organization in the First Schedule of ATA 1997 in the light of provisions of section 11B of the Act. The updated list of proscribed organizations can be accessed on NACTA's website at <https://nacta.gov.pk>

ii. Persons:

The Competent Authority to notify an individual as a proscribed person is the Ministry of Interior. However, vide SRO No. (1)/2014 dated 29th October 2014, Ministry of Interior has delegated the power and functions as specified in section 11EE of the ATA to respective Provincial Home Secretaries and the Chief Commissioner Islamabad Capital Territory. The list of proscribed persons is updated by the respective Home Departments and can also be accessed on NACTA's website at <https://nacta.gov.pk>

(a) Authorities and Reporting Entities for Compliance of Notifications:

The detailed procedure starting from proscription to freezing and seizure of assets in order to ensure compliance with UNSCR 1373 is given as under:

Authority	Action to be Taken
Ministry of Interior	<ul style="list-style-type: none"> • Immediately notify the proscription order of proscribed organization to all concerned federal and provincial departments/ organizations, financial institutions, DNFBPs etc. through mail, fax and emails to implement it without delay as required under the UNSCR 1373. • The proscription order shall be immediately uploaded on the NACTA/PITB software without delay and instantly emailed to all concerned authorities, organizations and financial institutions, DNFBPs, etc. • Enforce and monitor the actions taken under UNSCR 1373 by respective organizations.

	<ul style="list-style-type: none"> • Freeze and Seizure of property of proscribed organizations through provincial Home departments and its LEAs (movable and immovable) under section 110 of ATA 1997. • No prior notice shall be given for freezing the assets. • Keep updated data with respect to assets frozen/seized etc. • Process exemptions to the proscribed persons on the basis of their requests.
<p>Home Departments / Chief Commissioner ICT</p>	<ul style="list-style-type: none"> • Issue notification of proscribed persons and forward it to MoI, SBP, SECP, Passport and Immigration Authority, FIA, Financial Institutions, NPOs, DNFbps and provincial departments concerned and Chief Secretaries/ Provincial Home Secretaries of other provinces, AJK and GB through mail, fax and emails to implement it without delay as required under the UNSCR 1373. • The proscription order shall be immediately uploaded online through the PITB software without delay and instantly emailed to all concerned authorities, organizations and financial institutions/DNFbps. • The Chief Secretaries/ Home Secretaries of other provinces, AJK and GB and Chief Commissioner ICT will also forward the proscription notification to their respective relevant provincial departments through mail, fax and emails to implement it without delay as required under the UNSCR 1373. • All Home Departments and Chief Commissioner ICT will ensure that implementation is carried out without delay and share progress with respect to implementation of proscription notifications with the province from where notification has been issued, under intimation to Ministry of Interior and NACTA. • All Home Departments and Chief Commissioner ICT will comply with directions and instructions of the Ministry of Interior for implementation of the UNSCR 1373. • Freeze and Seizure money or property of proscribed organizations and proscribed persons (moveable and immovable) without delay under section 110 of ATA 1997. • This includes money or property of (a) entities owned or controlled directly or indirectly by proscribed organization and proscribed persons; and (b) persons and entities acting on behalf of, or at the direction of such proscribed organization and proscribed persons. • This also includes funds derived or generated from property owned or controlled directly or indirectly by proscribed persons or organizations and associated persons and entities.

	<ul style="list-style-type: none"> • No prior notice shall be given for freezing the assets. • Submit report to the Ministry of Interior, within 48 hours of any freeze or seizure, containing details of the money or property and the person or organization effected. • Keep updated data with respect to assets frozen/seized etc. and provide updated information regarding all actions taken under UNSCR 1373 to MoI and NACTA on monthly basis. • Process exemptions to the proscribed persons on the basis of their requests.
National Counter Terrorism Authority	Keep updated data of proscribed persons and organizations on its website.
State Bank of Pakistan	<ul style="list-style-type: none"> • Keep updated information on freezing actions reported by its regulated entities. • Monitor the measures taken by its regulated entities to implement TFS obligations under UNSCR 1373 • Continue to guide its regulated entities on TFS requirements and implementation of effective controls.
Security Exchange Commission of Pakistan	<ul style="list-style-type: none"> • Keep updated information on freezing actions reported by its regulated entities. • For the purposes of SECP, the term Regulated Entity means securities brokers, futures brokers, Insurers, Takaful Operators, Non- Bank Finance Companies (NBFCs) and Modarabas regulated by SECP under the administered legislation. • Monitor the measures taken by its regulated entities to implement TFS obligations under UNSCR 1373 • Continue to guide its regulated entities on TFS requirements and implementation of effective controls.
All Reporting Entities (Banks/DFIs/MFBs/NPOs/other financial institutions, DNFBPs, NPOs, etc.)	<ul style="list-style-type: none"> • Freeze without delay and without prior notice the money or other property owned or controlled, wholly or partly, directly or indirectly, by a proscribed organization or proscribed person, including the money or other property derived or generated from any such property frozen or seized. • This includes money or other property of (a) entities owned or controlled directly or indirectly by proscribed organization and proscribed persons; and (b) persons and entities acting on behalf of, or at the direction of such proscribed organization and proscribed persons. • This also includes all money or articles of value deposited with banks, financial institutions and DNFBPs or placed in their safe

	<p>lockers belonging to the proscribed person or organization.</p> <ul style="list-style-type: none"> • No loan facility or other financial support to be provided to proscribed person or organizations. • Necessary withdrawals (debits) shall be allowed from frozen accounts for which specific exemption has been granted under the relevant provisions of ATA, 1997, up to the amount specified within the exemption notification.
All Provincial Departments	<ul style="list-style-type: none"> • To comply with directions issued under proscription notification by Ministry of Interior or Home Departments to freeze and seize, without delay, property of proscribed organizations/ individuals under section 110 of ATA, 1997 and for compliance of UNSCR 1373. • To freeze without delay funds and other financial assets or economic resources of proscribed organization and proscribed persons, including money or property of (a) entities owned or controlled directly or indirectly by proscribed organization and proscribed persons; and (b) persons and entities acting on behalf of, or at the direction of such proscribed organization and proscribed persons. • This also includes funds derived or generated from property owned or controlled directly or indirectly by proscribed persons or organizations and associated persons and entities. • To submit report to the Ministry of Interior and concerned provincial Home Department, within 48 hours of any freeze or seizure, containing details of the money or property and the person or organization effected. • To implement instructions of Ministry of Interior or provincial Home Department as regards implementation of UNSCR 1373. • To process exemption to the proscribed persons on the basis of their requests.
District Intelligence Committees	<ul style="list-style-type: none"> • To identify and freeze without delay and without prior notice money or property of proscribed organizations and persons, including money or other property of (a) entities owned or controlled directly or indirectly by proscribed organization and proscribed persons; and (b) persons and entities acting on behalf of, or at the direction of such proscribed organization and proscribed persons. • This also includes funds derived or generated from property owned or controlled directly or indirectly by proscribed persons or organizations and associated persons and entities.

	<ul style="list-style-type: none"> • To submit report to the Ministry of Interior and concerned provincial Home Department, within 48 hours of any freeze or seizure, containing details of the money or property and the person or organization effected. • To hold regular meetings of District Intelligence Committee comprising representatives from police, Intelligence agencies, CTDs and Special Branch to identify the person or organizations to be placed on the 4th Schedule in accordance with the provisions of section 11EE and 11B of the ATA, 1997 respectively. • To make recommendations to the Home Departments for placement of the proscribed persons on the 4th Schedule of the ATA. Regular monitoring of the proscribed person and organizations • Review applications for de-proscriptions and make recommendations to relevant Home Departments. • Detailed scrutiny of exemption applications of proscribed persons.
District Administration	<ul style="list-style-type: none"> • To comply with directions issued under proscription notification by Ministry of Interior or Home Departments / Chief Commissioner ICT to freeze and seize without delay property of proscribed organizations/ individuals under section 110 of ATA, 1997 and for compliance of UNSCR 1373. • To freeze without delay funds and other financial assets or economic resources of proscribed persons and organizations; and of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by proscribed persons, organizations and associated persons and entities. • To submit report to the Ministry of Interior and concerned provincial Home Department, within 48 hours of any freeze or seizure, containing details of the money or property and the person or organization effected. • To implement any other instructions of the Home Departments as regards implementation of UNSCR 1373.
Provincial and District Revenue Authorities	<ul style="list-style-type: none"> • To comply with directions issued under proscription notification by Ministry of Interior or Home Departments / Chief Commissioner ICT to freeze and seize, without delay, property of proscribed organizations/ individuals under section 110 of ATA, 1997 and for compliance of UNSCR 1373.

	<ul style="list-style-type: none"> • All the provincial revenue authorities shall freeze/seize without delay the moveable and immovable assets of proscribed persons and organizations, including money or other property of (a) entities owned or controlled directly or indirectly by proscribed organization and proscribed persons; and (b) persons and entities acting on behalf of, or at the direction of such proscribed organization and proscribed persons. • This also includes funds derived or generated from property owned or controlled directly or indirectly by proscribed persons or organizations and associated persons and entities. • To submit report to the Ministry of Interior and concerned provincial Home Department, within 48 hours of any freeze or seizure, containing details of the money or property and the person or organization effected. • An immovable property may also be frozen by way of avoiding or restraining the transfer, or creation of an encumbrance over such property.
Provincial CTDs	<ul style="list-style-type: none"> • To assist District Intelligence Committee in discharge of its functions. • To implement all the requirements under section 11EE of ATA, 1997 which relates to Police and LEAs. • To monitor and keep surveillance over activities of such persons through police or any other government agencies or any other person. • Any other obligation under ATA, 1997.

(b) Prohibition of Funding and other Resources:

ATA, 1997 (section 11J) provides that a person in Pakistan or a Pakistani national outside Pakistan shall commit an offence if he knowingly or willfully makes money or other property or services available, directly or indirectly, wholly or jointly, for the benefit of a proscribed organization or proscribed person, including organizations owned or controlled, directly or indirectly, by proscribed organizations or proscribed persons; and persons or organizations acting on behalf of, or at the direction of, proscribed organizations or proscribed persons. A person also commits an offence if he knowingly or willfully pays for, or provides, money or other property or facilitate in any manner the travel of a person anywhere for the purpose of perpetrating, participating in, assisting or preparing for a terrorist act or for the purpose of providing or receiving training for terrorist related activities. All persons, departments, institutions, organizations and reporting entities are therefore required to strictly adhere to the prohibition provisions of ATA ,1997.

(c) Prescribed Forms for Freezing/Seizure:

The Ministry of Interior has issued Guidelines which require freezing/ seizing of assets on prescribed Form A and B in light of ATA 1997. The seizing/ freezing agency is required to fill the 'Form A' about the property frozen and 'Form B' which is a notice required to be sent to the person/entity whose property is frozen. These Forms are required to be submitted to the Ministry of interior and provincial Home departments immediate upon any freezing or seizure any money or other property under section 11O of the ATA,1997.

10. EXEMPTIONS:

Section 11OO of ATA, 1997 empowers the Federal Government to permit a proscribed organization or proscribed person such services, money or other property as may be proscribed, including such money as may be required for meeting basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources or such money as may be required for meeting extraordinary expenses.

The proscribed organization may request Federal Government through the Secretary, Ministry of Interior and proscribed persons may request the Home Secretary of provincial Home Department to provide them access to the service, money and other property. The applications and allied details and documents shall be securitized by the District Intelligence Committee (DIC) for the purposes of recommendations to the Ministry of Interior or Home Secretary, as the case may be, for the exemptions.

The provincial Home Departments shall direct the concerned LEAs to remain vigilant to ensure that exemption provisions are not violated. Furthermore, it should also be ensured that the amount of exemption does not exceed the allowed limit and is not used for any purpose other than for which exemption/permission has been granted.

11. DE-FREEZING OF ASSETS:

The ATA, 1997 provides legal procedure for de-freezing/unfreezing of assets under its section 11U, which states that the Federal Government may, by notification in the official Gazette, at any time remove any organization or person from the First Schedule or Fourth Schedule, as the case may be, on the basis that no reasonable ground for proscription exists. On cancellation of the proscription under the ATA, any money or other property that has been frozen or seized shall be released in a timely manner. The competent authority to remove any organization or person from the First Schedule or Fourth Schedule is Ministry of Interior and the Provincial Home Department, respectively.

In case of an inadvertent freeze or seizure, the affected person may file an application in accordance with section 110 of the ATA. The Government shall inquire into the ownership and control of the money or other property that has been frozen or seized and, if it is satisfied that the money or other property has inadvertently been frozen or seized, the same shall be ordered to be released immediately. In case of proscribed organization, the application may be addressed to the Secretary, Ministry of Interior, Islamabad and in case of proscribed person, to the concerned provincial Home Secretary. The Secretary Interior or provincial Home Secretary, as the case may be, shall conduct inquiry into the money or property frozen or seized, and process the case for the release of money or property if found frozen or seized inadvertently.

12. INTERNATIONAL COOPERATION:

International requests for freezing of assets or related to TF if located in another country can also be made by Pakistan under UN processes by way of requests to UN member states requesting that country consider implementing measures for freezing of assets based on a UNSCR 1373 designation by Pakistan. In cases where investigation reveals a nexus between offence committed by a proscribed organization or individual in Pakistan with a foreign entity or individual, the Ministry of Interior (upon request from relevant LEAs) would forward the Mutual Legal Assistance (MLA) request to Ministry of Foreign Affairs for onward submission to the concerned foreign government.

When requesting another country to give effect to the actions initiated under the freezing mechanisms of ATA, 1997, the Ministry of Interior would provide as much identifying information, and specific information supporting the designation, as possible to Ministry of Foreign Affairs, who would share it with the concerned foreign government. Similarly, such an incoming request from a foreign government would be forwarded to Ministry of Interior by Ministry of Foreign Affairs after receipt of the request for execution while taking into account the instructions and directives issued by Mol and NACTA on quality, timeliness and prioritization.

While preparing MLA request, the Law Enforcement Agencies (LEAs) would provide, inter alia, description of the legal basis upon which the request is made e.g. bilateral treaty, multilateral convention, or scheme or in the absence thereof, on the basis of reciprocity. The LEAs would further provide summary of the relevant facts of the case including, to the extent possible, full identification details of the alleged offender(s). The General Checklist for preparing MLA requests for appropriate use of LEAs is as under.

- **Legal basis for the request:** A description of the legal basis upon which the request is made e.g. bilateral treaty, multilateral convention or scheme or, in the absence thereof, on the basis of reciprocity.
- **Summary of the relevant facts** of the case including, to the extent possible, full

identification details of the alleged offender (s)

- **Description of the offence and applicable penalty:** A description of the offence and applicable penalty, with an excerpt or copy of the relevant parts of the law of the requesting State.
- **Description of the evidence/assistance requested:** A description in specific terms of the evidence or other assistance requested.
- A clear and precise explanation of the **linkage between the investigation, prosecution or proceedings and the assistance sought** i.e. describing how the evidence or other assistance sought is relevant to the case.
- A **description of the procedure** to be followed by the authorities of the requested State in executing the request to ensure that the request achieves its purposes, including any special procedures to enable any evidence obtained to be admissible in the requesting State and reasons why the procedures are required.
- **Presence of officials from the requesting State in execution of request:** An indication as to whether the requesting State wishes its officials or other specified persons to be present at or participate in the execution of the request and the reason why this is requested.
