



## In Focus

### Asset Freezing (Compensation) Bill [HL] (HL Bill 5 of 2016–17)

The [Asset Freezing \(Compensation\) Bill \[HL\]](#) is a private member's bill introduced by Lord Empey (Ulster Unionist). The Bill received its first reading in the House of Lords on 23 May 2016, and is scheduled to receive its second reading on 10 June 2016. The Bill seeks to make provisions enabling the Government to use frozen assets that are owned by persons involved in supplying terrorist organisations in the UK to compensate the victims of those organisations. Lord Empey has outlined the intentions behind his Bill as follows:

There is growing momentum in Parliament to try and right the wrong many feel has been done to the victims of Gaddafi sponsored terrorism in the UK. A debate in Westminster Hall on 23 February, secured by Poplar and Limehouse MP Jim Fitzpatrick, highlighted the frustration felt by many parliamentarians at the failure to resolve this issue. There is also a feeling that other countries, such as France and the US, were more aggressive in pursuing compensation for their citizens yet the UK, with the largest number of victims, has so far made no progress. This Bill is an attempt to provide the Government with the tools to actively resolve this injustice in co-operation with our international partners in the EU and the UN.<sup>1</sup>

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#### Key Provisions

Clause 1 subsection 1 of the Bill would require that the Treasury must “take all actions necessary” to prevent the release of particular assets based in the UK (outlined in subsection 3) that have been frozen under European Union Council Regulations, until circumstances described in subsection 5 have been met. Subsection 2 explains that such actions include the use of domestic asset freezing measures and subsection 3 states that assets must be “owned by persons who are or to have been involved in supplying terrorist organisations in the United Kingdom with arms, including explosive materials”. Subsection 4 outlines the criteria for a person to be considered to be or have been involved in supplying terrorist organisations. These include a United Nations Security Council Resolution to that effect or that the Treasury “reasonably believes” a person is engaged in such activity. Subsection 5 describes the circumstances referred to in subsection 1; under this provision, frozen assets could only be used to compensate victims of terrorism if a settlement has been reached to compensate UK citizens affected by supply of arms. Subsection 6 outlines the definitions used by the Bill. It states that “terrorist organisations in the United Kingdom” means those based in the UK and that the Treasury believes are engaged in such activities, under the definition used in the Terrorist Asset-Freezing etc Act 2010.

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## Recent Developments: Compensation of Victims

For a number of years, the victims of IRA attacks carried out using materials (such as semtex) supplied by the former Gaddafi regime have been seeking compensation from the Libyan authorities.<sup>2</sup> On 24 July 2015, the House of Commons Northern Ireland Affairs Committee launched an inquiry into the role of the UK Government in seeking compensation for the victims of IRA attacks by the provision of semtex and other weapons by the former Gaddafi regime.<sup>3</sup> In January 2016, the Committee wrote to former Prime Minister Tony Blair, after he declined to appear before the Committee, with a series of questions about whether he sought compensation for victims during negotiations with Gaddafi.<sup>4</sup> More recently, in evidence given to the Committee on 22 March 2016, Parliamentary Under Secretary of State for the Foreign Office, Tobias Elwood, welcomed news that the Libyan Deputy Prime Minister, Ahmed Maiteeg, had said the Libyan Government would form a committee to examine the issue of compensation.<sup>5</sup> Noting that the representatives of some victims groups had expressed a desire to travel to Libya, Mr Elwood suggested that it was currently too dangerous to travel to the country but said that when the security situation in Libya improved he would facilitate a delegation.<sup>6</sup>

In a Westminster Hall debate held on 23 February 2016, Labour MP Jim Fitzpatrick (who initiated the debate) asked if it was possible to use Gaddafi's frozen assets to compensate the victims of the IRA Canary Wharf bombing in 1996. The Exchequer Secretary to the Treasury, Damian Hinds, stated that the "approximate aggregate value of funds frozen in the UK under the Libyan financial sanctions regime is just under £9.5 billion".<sup>7</sup> However, he observed that under the rules governing Gaddafi's frozen assets, "it is clear that none of the licensing grounds would allow the Treasury to select a frozen account at will and require that funds be paid from it to a third party".<sup>8</sup> Mr Hinds suggested that the Treasury would be able to consider granting an exception if the Libyan Government came to an arrangement with the victims regarding compensation, and with the individuals and entities responsible for the frozen accounts.<sup>9</sup> The funds had been frozen after the United Nations Security Council unanimously adopted a resolution to freeze the assets of the then-Libyan leader Muammar Gaddafi in February 2011.<sup>10</sup> The EU subsequently implemented these measures through Council Regulation 204/2011, which has since been repealed and replaced by Council Regulation (EU) 2016/44 in January 2016.<sup>11</sup> According to the Treasury's Office of Financial Sanctions Implementation, there are a number of exemptions and licensing grounds that allow access to frozen funds. These include the basic needs of the designated person and the payment of reasonable legal fees and disbursements, among others.<sup>12</sup>

<sup>1</sup> Text supplied by Lord Empey on request from the Library.

<sup>2</sup> *Telegraph*, '[New Push for Compensation for IRA Victims](#)', 16 January 2016.

<sup>3</sup> House of Commons Northern Ireland Affairs Committee, '[Government Support for IRA Victims of Gaddafi-Supplied Arms Inquiry Launched](#)', 24 July 2015.

<sup>4</sup> House of Commons Northern Ireland Affairs Committee, '[Chair's letter to Tony Blair re: Support for Victims of Libyan Semtex](#)', 27 January 2016.

<sup>5</sup> BBC, '[IRA victims: Foreign Office Minister Says Compensation Committee is 'Welcome News'](#)', 22 March 2016; and *Guardian*, '[Britain Made Same Mistakes in Libya as it did in Iraq](#)', 24 January 2016.

<sup>6</sup> House of Commons Northern Ireland Affairs Committee, '[Oral Evidence: HM Government Support for UK Victims of IRA Attacks that Used Gaddafi-Supplied Semtex and Weapons](#)', 22 March 2016.

<sup>7</sup> *HC Hansard*, 23 February 2016, col 31WH.

<sup>8</sup> *ibid.*, col 32WH.

<sup>9</sup> *ibid.*

<sup>10</sup> *Financial Times*, '[UN Unanimously Backs Gaddafi Sanctions](#)', 26 February 2011.

<sup>11</sup> [Council Regulation \(EU\) No 204/2011 of 2 March 2011](#); and [Council Regulation \(EU\) 2016/44 of 18 January 2016](#).

<sup>12</sup> Office of Financial Sanctions Implementation, *Financial Sanctions: Guidance*, April 2016, p 11–12.

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