

STATUTORY INSTRUMENTS SUPPLEMENT

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S T A T U T O R Y I N S T R U M E N T S

2015 No. 42.

THE ANTI-TERRORISM REGULATIONS, 2015

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S T A T U T O R Y I N S T R U M E N T S

2015 No. 42.

The Anti-Terrorism Regulations, 2015.

(Under section 32A of the Anti – Terrorism Act, 2002, Act No. 14 of 2002)

IN EXERCISE of the powers conferred upon the Minister responsible for internal affairs by section 32A of the Anti-Terrorism Act, 2002, these Regulations are made this 14th day of August, 2015.

PART I—PRELIMINARY.

1. Title.

These Regulations may be cited as the Anti – Terrorism Regulations, 2015.

2. Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Anti – Terrorism Act, 2002;

“accountable person” means any person listed in the Second Schedule to the Anti–Money Laundering Act, 2013;

“basic and necessary expenses” include—

- (a) payments for foodstuff, rent or mortgage, medicines and medical treatment, taxes, insurances premiums, and public utility charges;
- (b) reasonable professional fees and reimbursement of expenses related to the provision of legal services; or
- (c) fees or service charges incurred for the routine holding or maintenance of frozen funds or other financial assets or economic resources;

“court” means the High Court;

“dealing” in relation to property or funds, means receiving, acquiring, transacting, representing, concealing, disposing of, converting, transferring or moving, using as security or providing financial services;

“extraordinary expenses” means any expenses that are not basic and necessary expenses;

“financial institution” has the meaning assigned to it under the Financial Institutions Act, 2004;

“Financial Intelligence Authority” means the Financial Intelligence Authority established under the Anti–Money Laundering Act, 2013;

“organisation” includes any association or combination of persons.

PART II—DECLARATION OF TERRORIST ORGANISATIONS.

3. Request to Minister to declare terrorist organisation

(1) The Minister may, by statutory instrument, made with the approval of the Cabinet, declare an organisation as a terrorist organisation.

(2) For the purposes of section 10 of the Act, any person, foreign state or international organisation may, in writing, request the Minister through the minister responsible for foreign affairs, to declare an organisation as a terrorist organisation.

(3) Subject to subregulation (4), a request under subregulation (2) shall—

- (a) be in writing and addressed to the Minister;
- (b) contain full particulars of the organisation sufficient to establish the identity, location and other relevant information of the organisation;
- (c) state the facts detailing the grounds to suspect that the organisation is a terrorist organisation;

- (d) state the nature of the funds or property of the organisation used or linked to any terrorist act or terrorist financing in Uganda, owned or controlled, directly or indirectly, wholly or jointly, or derived or generated from such funds or other property; and
- (e) state, if known, a reference to any person or entities which may be interested in the funds or property of the organisation.

(4) A request under subsection (2) by a person, foreign state or international organisation subject to diplomatic protocol shall accord with diplomatic protocols and channels, through the ministry responsible for foreign affairs.

(5) In addition to the information required under subregulation (3) (d), the request may include, where available, a reference to any persons or entities who may have an interest in the funds or property and the particulars relating to the identity and location of those persons or entities.

(6) Upon receipt of a request under this regulation, the Minister shall, in writing, request the Inspector General of Police to examine the request, within five working days, and advise the Minister on whether there are reasonable grounds to declare the organisation as a terrorist organisation.

(7) After further examining a request made under subregulation (6) and considering the report of the Inspector General of Police, the Minister shall make a determination as to whether to declare an organisation as a terrorist organisation.

(8) The Minister shall, immediately after a decision is made under subregulation (7), notify the foreign state, international organisation or a person subject to diplomatic protocol of the decision.

(9) Where an organisation has been declared as a terrorist organisation under regulation (7), the Minister shall, with the approval of Cabinet, amend the Second Schedule of the Act to include the organisation declared as a terrorist organisation.

4. Notification of declared organisation to the United Nations.

Where the Minister declares an organisation as a terrorist organisation under this Part, the Minister shall immediately notify the United Nations or the relevant United Nations Sanctions Committee of the declaration.

5. Designation by the United Nations of terrorist organisation declared by the Minister

(1) Where the Minister declares an organisation as a terrorist organisation, the Minister may, through the Minister responsible for foreign affairs, in accordance with diplomatic protocols and the procedures set out in subregulation (2), request the United Nations to declare that organisation as a terrorist organisation in accordance with United Nations Council Resolutions relating to terrorism.

(2) A request to declare an organisation under subregulation (1) shall—

- (a) be made in accordance with the procedures for listing of terrorist organisations adopted by the relevant Sanctions Committee of the United Nations;
- (b) provide as much relevant information as possible on the organisation proposed to be listed, including sufficient identifying information to allow for the accurate and positive identification of the organisation; and
- (c) provide a statement containing as much detail as possible on the basis for the proposed listing, including specific information supporting a determination that the organisation meets the relevant listing criteria, supporting information or documents and details of any connection between the organisation.

6. Review of decision of Minister declaring organisation as terrorist organisation.

(1) An organisation declared as a terrorist organisation by the Minister may apply to court to review the decision of the Minister.

(2) The court may, after considering an application for review, set aside a declaration made by the Minister only where the court is satisfied, on the balance of probabilities, that there were no reasonable grounds for the Minister to make the declaration.

(3) The court may take into consideration the following matters in determining that there are no reasonable grounds to make a declaration under the Act or these Regulations—

- (a) the person or organisation declared as a suspected terrorist or terrorist organisation is an innocent third party with the same or similar name to a suspected terrorist or terrorist organisation;
- (b) the person or organisation declared as a suspected terrorist or terrorist organisation no longer meets the criteria for declaration, in the case of persons or organisations declared by virtue of United Security Council Security Resolutions.

(4) Upon an application being made under this regulation, the court shall examine *ex parte* and *in camera*, any security or intelligence reports or other information or evidence considered confidential by the Minister, which were considered by the Minister and which formed, in part or in whole, the basis for a declaration.

PART III—DECLARATION OF PERSONS AND ORGANISATIONS UNDER UNITED NATIONS SECURITY COUNCIL RESOLUTIONS

7. Declaration by Minister of organisations or persons required by the United Nations Security Council.

(1) Where the United Nations Security Council designates a person, organisation or entity as a suspected terrorist or terrorist organisation under the following—

- (a) United Nations Resolutions 1267/1989 (Al-Qaida) adopted unanimously on 15 October 1999, designating Osama bin Laden and associates as terrorists and establishing a sanctions regime to cover individuals and entities associated with Al-Qaida, Osama bin Laden and the Taliban, wherever located;

- (b) United Nations Resolutions 1267/1988 (Taliban) adopted unanimously on June 17, 2011, relating to terrorism and the threat to Afghanistan, and imposing sanctions regimes on Al-Qaeda and the Taliban;
- (c) United Nations Resolutions 1373 adopted unanimously on 28 September 2001, relating to counter-terrorism measures following the 11 September terrorist attacks on the United States;
- (d) United Nations Resolutions 1718 or 1737 adopted unanimously by the United Nations Security Council on October 14, 2006, imposing a series of economic and commercial sanctions on the Democratic People's Republic of Korea (the DPRK, or North Korea) in the aftermath of the Democratic People's Republic of Korea's claimed nuclear test of October 9, 2006,

the Permanent Mission of Uganda to the United Nations shall, without delay, submit to the Minister responsible for foreign affairs the particulars of the designation.

(2) The Minister responsible for foreign affairs shall forward a designation submitted to him or her under subregulation (1) to the Minister and the Minister shall, without delay, declare the person or organisation as a suspected terrorist or terrorist organisation in accordance with these Regulations.

(3) For the avoidance of doubt, a person may only be declared as a suspected terrorist by the Minister under these Regulations if that person is designated as such by the United Nations Security Council in accordance with a relevant United Nations Security Council Resolution.

8. Delisting of person or organisation designated by the United Nations.

(1) A person or organisation designated as a suspected terrorist or terrorist organisation by the United Nations Security Council may apply to the United Nations Security Council to be delisted as a suspected

terrorist or terrorist organisation in accordance with the relevant procedures set out in the relevant United Nations Security Council Resolution under which the person or organisation was designated.

(2) Where a person or organisation is delisted as a terrorist or terrorist organisation by the United Nations Security Council and that person has been declared as a suspected terrorist or terrorist organisation in Uganda as a consequence under these Regulations, the person or organisation shall be removed from the list of declared suspected terrorists or terrorist organisations.

PART IV—NOTIFICATION OF DESIGNATED PERSONS AND ORGANISATIONS
TO FINANCIAL INTELLIGENCE AUTHORITY AND FREEZING OR SEIZING OF
FUNDS OR PROPERTY

9. Financial Intelligence Authority to freeze assets or funds of declared person or organisation.

(1) Where the Minister declares a person or organisation as a terrorist or a terrorist organisation under these Regulations, the Minister shall, within twenty-four hours after the declaration, submit the name and particulars of the person or terrorist organisation to the Financial Intelligence Authority.

(2) The submission of the Minister under subregulation (1) shall be in the Form in the Schedule.

(3) Upon receipt of the particulars of the person or terrorist organisation declared as a suspected terrorist or terrorist organisation under subregulation (1), the Financial Intelligence Authority shall cause the freezing or seizing of the funds or property of the suspected terrorist or terrorist organisation.

(4) For the purposes of subregulation (2), the Financial Intelligence Authority shall, upon receipt of the particulars of the suspected terrorist or terrorist organisation, immediately and without notice to the suspected terrorist or terrorist organisation, circulate the information in an expeditious manner, to all accountable persons and any relevant public or private body to facilitate the timely freezing or seizing of the funds or property of the suspected terrorist or terrorist organisation.

(5) Upon receipt of information under subregulation (3) by an accountable person or relevant public or private body, the accountable person or relevant public or private body shall immediately verify whether the details of the suspected terrorist or terrorist organisation match with the particulars of any customer, and if so, to determine whether the customer holds any funds or property with it.

(6) Where a customer holds funds or property under subregulation (5), whether wholly or jointly owned or controlled directly or indirectly by the customer, the accountable person or relevant public or private body shall, without delay, *freeze* such funds or property and immediately stop all transactions related to those funds or property.

(7) An accountable person or relevant public or private body shall, immediately after freezing or seizing any assets or property under subregulation (5), inform the Financial Intelligence Authority of the full particulars of the funds or property which have been frozen or seized and of any other information that is relevant to or would facilitate compliance with these Regulations, including all transactions relating to the funds or property.

(8) Without limiting the general effect of subsection (7), the particulars required shall include—

- (a) in the case of a financial institution—
 - (i) the account number;
 - (ii) the name of the account owner or holder;
 - (iii) the date and time of freezing of the account;
 - (iv) the balance of funds on the account on the date and time of freezing or seizing of the funds or property;
 - (v) the related accounts, if any, including the balance of funds or property in the accounts on the date and time of freezing or seizing; and
 - (vi) an explanation as to the grounds for the identification of the related accounts;

- (b) in the case of a relevant public or private body—
 - (i) the nature and description of the funds or property;
 - (ii) the name of the owner or holder of the funds or property;
 - (iii) the mode and date of acquisition of the funds or property by the owner; and
 - (iv) the location of the funds or property;
 - (v) the transactions relating to the funds or property.

(9) An accountable person or relevant public or private body shall not permit any dealings in respect of any funds or property the Financial Intelligence Authority has directed should be frozen or seized.

(10) An accountable person or relevant public or private body which permits any dealings in respect of any frozen funds or property in contravention of subregulation (9) commits an offence.

10. Financial Intelligence Authority to inform Director of Public Prosecutions of freezing or seizing of funds or property.

(1) After receipt of the particulars of the funds or property which have been frozen or seized by an accountable person or relevant public or private body under regulation 9, the Financial Intelligence Authority shall immediately submit the particulars to the Director of Public Prosecutions, and in any case not later than forty eight hours after the freezing or seizing of the funds or property.

(2) The Director of Public Prosecution shall, after receipt of the particulars specified in subregulation (1), apply to court for an order freezing or seizing such funds or property and the court shall make a determination expeditiously.

11. Funds or property frozen or seized in error.

Where funds or property are frozen or seized in error, the Financial Intelligence Authority shall immediately notify the Director of Public Prosecutions of the error and request the Director of Public Prosecutions to obtain a court order authorizing the Financial Intelligence Authority to immediately cause unfreezing of the funds or property.

12. Funds or property to remain frozen until determination by court.

(1) Where funds or property are frozen or seized by virtue of a court order, the accountable person or relevant public or private body shall not permit any dealings related to those funds or property until the court makes a determination.

(2) A person who deals with funds or property in contravention of a court order or directive of the Financial Intelligence Authority in respect of those funds or property commits an offence, and is on conviction liable to the penalty specified in section 117 of the Penal Code Act.

(3) In addition to the penalty specified in section 117 of the Penal Code, a person convicted under subregulation (2), is liable, in the case of—

- (a) an individual, to a fine of two currency points for each day the individual continues in contravention;
- (b) a body corporate or public or private body, to a fine of two currency points for each day the body corporate or public or private body continues in contravention.

(4) An accountable person who contravenes subregulation (2) is, in addition to the penalty prescribed under subregulations (2) and (3), subject to additional penalties prescribed in the Anti-Money Laundering Act, 2013.

13. Preservation of frozen or seized funds or property.

An accountable person or relevant public or private body which seizes or freezes any funds or property under a temporary order or order of court shall ensure the reasonable preservation of the seized or frozen funds or property.

14. Freezing or seizing of funds of designated organisations and persons outside Uganda.

(1) Where the Minister declares a person or organisation as a suspected terrorist or terrorist organisation under these Regulations and that person or organisation has funds or property outside Uganda, the Financial Intelligence Authority may, through the Minister and the appropriate diplomatic channels, request the relevant authority in the country where the funds or assets are located, to free or seize those funds or property.

(2) A request under subregulation (1) shall be accompanied with the relevant information to enable the relevant authority in the country where the funds or property are located to make a determination on the request.

15. Review of decision freezing or seizing funds or property

(1) The court may vary an order freezing or seizing funds or property, where the court is satisfied on the balance of probabilities that—

- (a) the order freezing or seizing of the funds or property was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (b) the person or organisation is an innocent third party with a *bona fide* right to funds or property frozen or seized; or
- (c) the funds or property frozen or seized are exempt from freezing or seizure under any law or under the relevant United Nations Security Council Resolutions on terrorism.

(2) Upon an application being made under subregulation (1), the court shall examine *ex parte* and *in camera* any security or intelligence reports or other information or evidence considered confidential by the Financial Intelligence Authority, which were considered by the Financial Intelligence Authority and which formed, in part or in whole, the basis for the seizing or freezing of the funds or property.

(3) Where an order freezing or seizing funds or property is varied by the court, the Financial Intelligence Authority shall issue a notice of that fact to the person or organisation and to any person affected by the decision.

(4) Every order made under subregulation (5) shall be published, without delay, in the Gazette, by the Financial Intelligence Authority.

(5) The Financial Intelligence Authority shall, upon receipt of an order by the court revoking an order freezing or seizing funds or property, cause an accountable person or any relevant public or private body, unfreeze the funds or property.

(6) This regulation does not apply to funds or property frozen or seized by virtue of a United Nations Security Council Resolution unless the funds or property have been unfrozen in accordance with a United Nations Security Council Resolution.

PART V—DEALINGS IN FROZEN OR SEIZED FUNDS OR PROPERTY

16. Dealings in frozen assets and property.

(1) A person who wishes to carry out any dealings in any funds or property which have been frozen or seized under these Regulations shall apply to court.

(2) The court may permit dealings in frozen or seized funds or property on any grounds the court considers appropriate, including on humanitarian grounds recognised by the United Nations Security Council and specified in United Security Council Resolutions.

(3) Without limiting the general effect of subsection (2), a court may take into account the following matters before making an order permitting dealings in frozen or seized funds or property—

- (a) that the funds or property are necessary to cover the basic and necessary expenses of the suspected terrorist or terrorist organisation;
- (b) that the funds or property are necessary to cover the extraordinary expenses of the suspected terrorist or terrorist organisation; or
- (c) that the frozen or seized funds or property are subject to a judicial, administrative or arbitral lien or judgment; or
- (d) that the frozen or seized funds or property are payments due under a contract entered into prior to the declaration of the person or organisation as a suspected terrorist or terrorist organisation.

PART VI—GENERAL

17. Confidentiality.

A person who processes any information or receives any information under these Regulations shall treat the information as confidential and shall not disclose the information unless required by law.

18. Notification of Directorate of Citizenship and Immigration Control of designated persons.

(1) Where a person is declared a suspected terrorist under these Regulations, the Minister shall immediately notify the Directorate of Citizenship and Immigration Control and request the Directorate of Citizenship and Immigration Control to effect the appropriate immigration control in respect of that person including imposing a travel ban on the suspected terrorist.

(2) Without limiting the general effect of subregulation (1), where the person is declared a suspected terrorist as a consequence of a United Nations Security Council Resolution which requires that a travel ban be effected in respect of that person, the Directorate of Citizenship and Immigration Control shall immediately effect a travel ban in respect of that person.

19. Cooperation with other agencies and exchange of information.

The Financial Intelligence Authority, the Police, the Director of Public Prosecutions, ministries, departments and agencies of government shall cooperate, and where necessary exchange information, in order to give effect to the Act and these Regulations.

20. Publication of designated person or organisation.

The Minister shall publish in the Gazette and in a newspaper of wide circulation in Uganda, all persons declared as suspected terrorists and organisations declared as terrorist organisations under the Act and these Regulations.

21. Registers.

(1) The Minister shall maintain a register, in an appropriate form, of all persons declared as suspected terrorists and terrorist organisations.

(2) The Financial Intelligence Authority shall maintain a register, in an appropriate form, of all funds or property frozen or seized under the Act or these Regulations.

22. Request for information.

(1) A person, foreign state or international organisation may, in writing, request for information from the Minister, the Financial Intelligence Authority or the Director of Public Prosecutions, kept by virtue of the Act or these Regulations.

(2) A request for information relating—

- (a) to a person declared as a suspected terrorist or terrorist organisation under the Act or these Regulations shall be addressed to the Minister;

- (b) to the freezing or seizing of funds or property under the Act or these Regulations, shall be addressed to the Financial Intelligence Authority.

SCHEDULE

Regulation 9

FORM

THE ANTI-TERRORISM REGULATIONS, 2015

The Executive Director
Financial Intelligence Authority
Kampala

NOTIFICATION OF DECLARATION OF TERRORIST/TERRORIST ORGANISATION (choose whichever is applicable).

Take note that, I have this day of
20..... declared..... (*person/organisation terrorist*) (choose
whichever is applicable) a terrorist or terrorist organisation in accordance with
the Anti-Terrorism Act, 2002.

Dated thisday of20.....

Signature

Minister of Internal Affairs

CROSS REFERENCE

Anti–Money Laundering Act, 2013, Act No. 12 of 2013

Penal Code Act, Cap. 120

Uganda Citizenship and Immigration Control Act, Cap. 66

GEN. ARONDA NYAKAIRIMA cgsc (MP),
Minister of Internal Affairs.