(Legislative Supplement No. 90)

LEGAL NOTICE NO. 187

THE PREVENTION OF TERRORISM ACT

(No. 30 *of* 2012*)*

THE PREVENTION OF TERRORISM (IMPLEMENTATION OF THE UNITED NATIONS SECURITY COUNCIL RESOLUTIONS ON SUPPRESSION OF TERRORISM) REGULATIONS, 2024

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THE PREVENTION OF TERRORISM ACT

(Cap. 59B*)*

IN EXERCISE of the powers conferred by section 50(1) of the Prevention of Terrorism Act, the Cabinet Secretary for Interior and National Administration makes the following Regulations—

THE PREVENTION OF TERRORISM (IMPLEMENTATION OF THE UNITED NATIONS SECURITY COUNCIL RESOLUTIONS ON THE SUPPRESSION OF TERRORISM) REGULATIONS, 2024

PART I— PRELIMINARY

Citation.

1. These Regulations may be cited as the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on the Suppression of Terrorism) Regulations, 2024.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

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"Act" means the Prevention of Terrorism Act;

"Cabinet Secretary" has the meaning assigned to it under section 2 of the Act;

"Committee" has the meaning assigned to it under section 2 of the Act;

"competent party" means the relevant regulatory agency, security agency, intelligence agency, law enforcement agency, supervisory body, or administrative agency;

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

"designated person or entity" means a person or entity designated pursuant to these regulations or the applicable United Nations Security Council Resolutions adopted under Chapter VII of the United Nations Charter;

"designation" or "listing" means the identification of a person, organization, association or group of persons that is subject to targeted sanctions pursuant to the applicable United Nations Security Council Resolutions;

"delist" means the removal of the name and other identification information of a designated person or entity from the domestic list or the sanction list;

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"designated non-financial businesses or profession" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act;

"Domestic List" means the list compiled and maintained by the Committee under regulation 20;

"economic resources" includes assets of every kind, whether movable or immovable, tangible or intangible, actual or potential,

which are not funds and which may be used to obtain funds, goods or services;

"extraordinary expenses" includes fees to pay professional fees or costs relating to legal services rendered or other extraordinary expenses within reasonable limits or fees for services relating to safekeeping or management of frozen funds;

"Financial Institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act;

"Financial Reporting Centre" means the Financial Reporting Centre established under section 21 of the Proceeds of Crime and Anti-Money Laundering Act;

"freeze" means to prevent or restrain specific property or funds from being used, transferred, transacted, converted, altered, concealed, moved or disposed of without affecting the ownership thereof;

"person" means a natural person or legal person;

"reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act;

"Resolution" means a resolution of the United Nations Security Council and includes its successor resolution;

"Resolution, 1267" means Resolution 1267 (1999) of the Security Council and includes its successor resolutions;

"Resolution, 1267/1989 means Resolutions 1267 (1999) and 1989 (2011) and 2253 (2015) of the Security Council and includes its successor resolutions;

"Resolution, 1373" means Resolution 1373 of the Security Council and includes its successor resolutions;

"Resolution, 1988" means Resolution 1988 (2011) of the Security Council and includes its successor resolutions;

"Sanctions Committee" means a Committee of the Security Council of the United Nations established under a Resolution of the Security Council;

"Sanctions List" means the 1267/1989 sanctions list and the 1988 sanctions list or other similar list issued by the Security Council;

"Secretary to the Committee" means the Director General of the Financial Reporting Centre as provided under section 40D(2) (j) of the Act;

"Security Council" means the Security Council of the United Nations established under Article 7 of Chapter III of the United Nations Charter;

"self-regulatory body" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act;

"terrorism financing" includes the offence specified under section 5 and 5A of the Act;

"without delay" means within twenty-four hours of a designation by the United Nations Security Council or its relevant Sanctions Committee or within twenty four hours of designation by the Committee.

Application.

3. These Regulations shall apply to –

(a) an entity designated under Resolutions 1267/1989 (Al-Qaida);

(b) an entity designated under Resolution 1373; and

(c) an entity designated under Resolution 1988 and successor resolutions.

Obligation to implement.

4. The Counter Financing of Terrorism Inter-Ministerial Committee shall be responsible for the implementation of targeted financial sanctions relating to the suppression of terrorism financing.

PART II — IMPLEMENTATION OF RESOLUTION 1267/1989 AND RESOLUTION, 1988

Circulation of United Nations sanctions list.

5. (1) For the purpose of timely implementation of Resolution 1267/1989 and Resolution 1988, the Committee shall, through the Secretary to the Committee,—

(a) continuously monitor the sanction list; and

(b) receive and circulate all designations made by the Security Council and any sanctions list or other similar lists issued in connection therewith.

(2) Upon designation by the Security Council, the Committee through the Secretary to the Committee shall circulate the sanctions list, including through electronic means, to—

(a) reporting institutions under the Proceeds of Crime and Anti-Money Laundering Act;

(b) supervisory bodies and self-regulatory body specified under the Proceeds of Crime and Anti-Money Laundering Act;

(c) the national security organs specified under Article 239 of the Constitution;

(d) such law enforcement agencies as it may consider necessary;

(e) any other person so authorised to—

(i) detect, freeze or seize the funds or the property of a designated person or entity; or

(ii) take such action as may be necessary to give effect to Resolution, 1267 or Resolution, 1988;

(f) any other person;

(3) In circulating the Sanctions List under this regulation, the Committee shall, through the Secretary to the Committee, provide clear guidance on freezing to all persons and competent parties that may be holding targeted funds or other assets.

Authority to freeze.

6. (1) A designation or circulation of a sanctions list pursuant to regulation 5 shall be deemed to authorise a reporting institution and any other person or entity holding the funds, property or other assets of a designated person or entity to freeze, until further notice, such assets, property or funds.

(2) Upon designation or circulation of a sanctions list under regulation 5, all natural and legal persons within the country shall without prior notice freeze the funds or other assets of designated persons and entities.

Actions to be taken upon designation under Resolution 1267 or 1988.

7. (1) Upon receipt of the Sanctions List under regulation 5, any person holding funds, property or other assets of a designated person or entity shall—

(a) freeze without prior notice—

(i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat;

(ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated person or entity;

(iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated person or entity;

(iv) funds or other assets of person or entity acting on behalf of, or at the direction of, designated person or entity;

(b) not make available any funds or other assets, economic resources or financial or other related services as specified under section 30G of the Act; and

(c) take such other action as may be necessary to give effect to Resolution 1267/1989 and Resolution 1988.

Implementation time frame.

8. The implementation of the provisions of regulations 5 and 7 shall be undertaken cumulatively without delay.

Reporting.

9. Within twenty-four hours of taking action or freezing funds or other assets under regulation 7, the person who effected the freezing shall, through the Secretary to the Committee and in the specified manner, file a report with the Committee specifying the assets frozen or actions taken including attempted transactions.

Proposal for listing under Resolution 1267/1989 or 1988.

10. (1) Where there are reasonable grounds to believe that a person or entity meets the relevant listing criteria, the Committee shall propose to the relevant Sanctions Committee, the name of a person or entity.

(2) The proposal for listing under sub-regulation (1) shall be transmitted by the Cabinet Secretary responsible for matters relating to foreign affairs to the relevant Sanctions Committee.

(3) A proposal for listing under this regulation shall not be conditional upon the existence of criminal proceedings and shall operate without prior notice to the proposed listed person or entity.

(4) In proposing a person or entity under sub-regulation (1), the Committee shall—

(a) follow the procedures, including using standard forms for listing, contained in or as may be adopted pursuant to any relevant United Nations Security Council Resolution;

(b) provide as much relevant information on the proposed person or entity, including—

(i) sufficient identifying information to allow for the accurate and positive identification of the person or entity, and to the extent possible, the information required by the International Criminal Police Organisation (Interpol) to issue a Special Notice;

(ii) a statement of case which contains as much detail as possible on the basis of the listing, including specific information supporting a determination that the person or entity meets the relevant listing criteria, the nature of the information, supporting information or documents that can be provided, and details of any connection between the proposed person or entity and any currently listed person or entity;

(iii) the nature of supporting evidence;

(iv) supporting evidence or documents;

(v) such other relevant information as may be required under any United Nations Security Council Resolution;

(c) specify whether the relevant Sanctions Committee may make known the status of Kenya as the designating State.

(5) Any information given under this regulation shall be given subject to conditions restricting the use and disclosure of the information communicated to the relevant Sanctions Committee:

Provided that the statement of case referred to in sub-regulation (4)(b)(ii) shall, upon request, be disclosed by the relevant Sanctions Committee, except for the parts the Committee identifies as being confidential.

(6) For purposes of sub-regulation (1), the Committee may consult or seek assistance from any competent authority, law enforcement agency, or other jurisdictions or United Nations entities as may be necessary to determine whether, on reasonable grounds, there is sufficient evidence to support the listing of a person or entity on a United Nations Sanctions List.

Access to frozen funds or other assets.

11. (1) A person whose funds has been affected by the freezing order issued in accordance with Resolution 1267/1989 and Resolution 1988 may submit a request, in the manner specified by the Committee, to have such funds or part thereof released to cover—

(a) necessary and basic expenses, including payments for rent or mortgage, foodstuffs, monthly family expenses, medicines and medical treatment, taxes, insurance premiums and public utility charges;

(b) expenses exclusively for payment of reasonable professional fees, or reimbursement of incurred expenses associated with the provision of legal services;

(c) fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources;

(d) necessary for extraordinary expenses provided that such request is assessed by the Committee and if favourably considered, forwarded to the relevant Sanctions Committee for its approval.

(2) The request to have funds released for expenses outlined in sub-regulation (1) shall be assessed by the Committee within the thirty working days, and if favourably considered, the request shall be directed to the relevant Sanctions Committee established pursuant to Security Council Resolutions 1267 for its decision.

(3) The Committee may, within forty-eight hours from date of submission of the request to the relevant Sanctions Committee under sub-regulation (2) and in the absence of any negative decision received from the Sanctions Committee, authorise the release of funds as applied for.

(4) The Committee shall direct persons or entities holding funds or other assets, subject to access granted, to respect the authorisation issued under this Regulation.

(5) Notwithstanding the provisions of sub-regulation (1) a designated person or entity may submit a request for access to frozen funds or other assets under this regulation to the focal point in the manner specified by the relevant Sanctions Committee.

(6) A person or entity seeking to make a request under sub-regulation (5) may request the Committee, through the Secretary to the Committee, for guidance on the procedure for submitting such requests.

Third party claims.

12. (1) A person who claims to have a *bona fide* right to funds or assets frozen in terms of Regulations 7 and 15 may apply to the Committee, through the Secretary to the Committee, for the exclusion of his or her interest from the freezing order.

(2) An application referred to in sub-regulation (1) shall be accompanied by a sworn statement setting out—

(a) the nature and extent of the right, title or interest of the applicant in the funds or assets concerned;

(b) the time and circumstances of the acquisition by the applicant of the right, title or interest in the funds or assets; and

(c) any additional facts supporting the application, which assist the Committee to make an assessment on the *bona fide* ownership or interest in the frozen funds.

(3) The Committee shall determine an application under this regulation within sixty working days and notify the applicant of its decision.

(4) Where the application under this regulation is approved, the Committee, through the Secretary to the Committee, shall notify all persons or entities holding frozen funds and other assets of its decision and direct the unfreezing of the funds and other assets with regards to the third-party claim.

Application for the de-listing 1267/1989 or 1988.

13. (1) A designated person or entity may make a de-listing request to the Focal point in the case of Resolution 1988 and to the United Nations Office of the Ombudsperson in the case of Resolution 1267 or Resolution 1989 through the address specified in the Schedule hereto or to the relevant Sanctions Committee

(2) An application made under sub-regulation (1) may be made based on the following grounds—

(a) mistaken identity;

(b) not to be the person or entity on the designation list;

(c) relevant and significant change of facts or circumstances including the inclusion of the applicant in a witness protection program;

(d) the death dissolution or liquidation of a designated person or entity; or

(e) any other circumstance which would show that the basis for designation no longer exists.

(3) Where the Sanctions Committee deletes the name of a person or entity appearing on a sanctions list, the Committee shall, within twenty-four hours of receipt of the notification of de-listing—

(a) notify the persons or entities holding targeted funds or other assets of such deletion;

(b) notify the designated person or entity of the delisting indicating the consequences thereof;

(c) provide clear guidance to financial institutions and other persons or entities, including designated non-financial businesses and professions, that may be holding targeted funds or other assets, on their obligations to respect the delisting or unfreezing action.

(4) The persons or entities holding targeted funds or other assets shall, without delay, unfreeze the funds or other assets.

PART III — IMPLEMENTATION OF RESOLUTION, 1373

Designation under Resolution 1373.

14. (1) The Committee may on its own motion or upon request by a competent party or any other person, identify and designate a person for purposes of Resolution 1373.

(2) The persons who may be designated under sub-regulation (1) include—

(a) a person who commits, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts;

(b) entities owned or controlled, directly or indirectly, by persons under paragraph (a);

(c) persons and entities acting on behalf of, or at the direction of, persons and entities in paragraph (a); and

(d) a person who has committed the offence of terrorism financing.

(3) Where there are reasonable grounds that a person meets the designation criteria specified under sub-regulation (2), the Committee shall designate the person or entity for purposes of Resolution 1373 and cause the name of that person and such other relevant identification information to be entered into the domestic list.

(4) The Committee shall use all available information sources, including information from domestic and foreign competent parties, to identify persons who meet the designation criteria and shall coordinate with any person it deems suitable to obtain information regarding the designation of persons:

Provided that the Committee shall take measures to ensure that the information received under this regulation contains all relevant information necessary to reach a decision on whether a person or entity meets the designation criteria under this regulation, including through seeking additional information.

(5) Any person with information on the targets for designation shall present such information to the Committee, through the Secretary to the Committee, who upon receipt shall notify the Committee of such information for its consideration in line with its internal procedures

(6) Upon designation of a person or entity under this regulation, the Committee shall circulate the designation and any other relevant information, including through electronic means, without prior notice and in the manner specified under regulation 5(2) and 5(3).

(7) Despite sub-regulation (6), the Committee may circulate the designation to any other State as specified in the relevant Resolution.

(8) Upon receipt of the designation under sub-regulation (6), any person or entity holding funds, property or other assets of a designated person or entity shall freeze funds and other assets in the manner specified under regulation 15.

(9) The circulation and freezing of funds and other assets under this regulation shall be undertaken cumulatively without delay.

(10) A proposal for designation under this regulation shall not be conditional upon the existence of a criminal proceeding and shall operate without prior notice to the proposed listed person or entity.

Actions to be taken upon designation under Resolution 1373.

15. (1) Upon receipt of the notification of designation under regulation 14, any person holding funds, property or other assets of a designated person or entity shall —

(a) freeze without prior notice—

(i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat;

(ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated person or entity;

(iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated person or entity;

(iv) funds or other assets of person or entity acting on behalf of, or at the direction of, designated person or entity;

(b) not make available any funds or other assets, economic resources or financial or other related services as specified under section 30G of the Act; and

(c) take such other action as may be necessary to give effect to Resolution 1373.

(2) Within twenty-four hours of detecting and freezing the funds or other assets, financial institutions and designated non-financial businesses and professions shall file a report with the Committee, through the Secretary, in a manner specified by the Committee, of any assets frozen or actions taken in compliance with the prohibition requirement of the Committee, including attempted transactions.

(3) The Committee shall disseminate the reports to the relevant competent parties.

Notification of designation under Resolution 1373.

16. (1) Where the Committee designates a person or entity under this Part, the Committee shall inform the designated person or entity of the designation seven days following the date of making such decision.

(2) The notification under this sub-regulation (1) shall contain the following information—

(a) a summary of the grounds for designation and consequences thereof;

(b) details of the freezing order and the prohibitions applicable;

(c) the right to make an application for judicial review; and

(d) any other relevant information that the Committee shall determine:

Provided that the Committee shall not disclose any such information that may prejudice national security.

(3) A notification under this regulation shall be served at the designated person or entity's last known residence address or business address or through electronic means or in any other manner the committee may specify.

Request to another country.

17. (1) The Committee may, through the Cabinet Secretary, request any other country to give effect to the actions and freezing mechanisms initiated under the against any person or entity designated under this Part.

(2) A request under sub-regulation (1) shall be effected by circulating the domestic list accompanied by as much identifying information, and specific information supporting the designation, which the Committee considers relevant to that other country to take the actions as specified in the request and Resolutions 1373 (2001).

Third party requests.

18. (1) A request for designation made by a country pursuant to Resolution 1373 shall be transmitted to the Kenyan Mission in that country.

(2) Where a Kenyan Mission does not exist in the country making the request, the country shall transmit the request to the Ministry responsible for matters relating to foreign affairs in Kenya.

(3) A request under sub-regulations (1) or (2) shall contain the following—

(a) such relevant information as possible on the person or entity proposed to be designated, including sufficient identifying information to allow for the accurate and positive identification of the party; and

(b) a statement containing as much detail as possible on the basis for the proposed designation, including specific information to support a determination that the party meets the relevant designation criteria under this regulation.

(4) Upon receipt of a request under sub-regulation (1) or (2), the Kenyan Mission or the Ministry shall submit the request to the Committee for consideration.

(5) Upon receipt of a request under this regulation, the Committee shall, within thirty days of receipt, consider the request and make a determination.

(6) Where the Committee determines that there are reasonable grounds to designate that person or entity, the Committee shall, without prior notice—

(a) designate the person or entity;

(b) circulate the designation in the manner specified under regulation 5(2) and 5(3);

(c) direct and require any person or entity holding funds, property or other assets of a person or entity designated

under this regulation to freeze funds and other assets in the manner specified under regulation 15.

(7) The circulation and freezing of funds and other assets under this regulation shall be undertaken cumulatively without delay.

(8) A person or entity designated under this regulation shall be notified in the manner specified under regulation 16.

Authority to solicit and collect information for designation.

19. (1) For the purposes of making a determination on a person or entity meeting the criteria for designation under Resolution 1373, the Committee may—

(a) consult or seek assistance from relevant regulatory agency, security agency, intelligence agency, law enforcement agency, supervisory body or administrative agency, including countries or United Nations entities, as may be necessary to determine whether, on reasonable grounds, there is sufficient evidence to support the listing of a person or entity on a United Nations Sanctions List; and

(b) collect or solicit information to identify a person and entity that, based on reasonable grounds, or a reasonable basis to suspect or believe, meet the criteria for designation.

(2) The Committee shall operate *ex-parte* against a person or entity who has been identified and whose proposal for designation is being considered.

Domestic List.

20. (1) The Committee shall compile and maintain a Domestic List.

(2) The Domestic List prepared under sub-regulation (1) shall include, where available, the following information in relation to a designated person or entity—

(a) the name including any alias or title of the person or entity;

(b) the place and date of birth, establishment or incorporation;

(c) the original or acquired nationality;

(d) passport numbers, identity card numbers or registration number;

(e) gender;

(f) physical and postal addresses;

(g) occupation;

(h) telephone number; and

(i) any other information which the Committee may consider relevant.

(3) The Committee shall periodically review the Domestic List where new information is available on designated persons or entities, which may alter the status of the designated persons or entities concerning meeting the designation criteria under these Regulations.

Application for review of designation under Resolution 1373.

21. (1) Within fourteen days of receiving information on designation under this Part, a designated person or entity may apply to the High Court for review of that decision.

(2) In considering the application under this regulation, the Court —

(a) shall hear the matter in camera;

(b) may examine any security or intelligence reports or other information or evidence considered by the Committee.

De-listing from the Domestic List

22. (1) The Committee may de-list a designated person or entity from the domestic list where it is established that the designated person no-longer meets the designation criteria under Regulation 14—

(a) on its own motion; or

(b) following the consideration of an application received in accordance with this Regulation.

(2) An application to delist under sub-regulation (1) shall be submitted to the Committee, through the Secretary to the Committee, in the manner specified by the Committee and shall be accompanied with such relevant information that may be necessary to assist the Committee in making a determination.

(3) The Committee may request further information from the designated person or entity or any other person when considering a request under this Regulation in order to reach a decision.

(4) Upon receipt of the application under this regulation, the Committee shall consider the application in accordance with its internal procedures.

(5) Within thirty days of receiving the request under sub-regulation (1), the Committee shall consider the request and where reasonable grounds exist—

(a) shall delete the name and other details pertaining to the designated person from the Domestic List;

(b) circulate notification of the deletion to persons or entities holding targeted funds or other assets of such delisting;

(c) notify the delisted person or entity of the delisting and the consequences thereof; and

(d) provide clear guidance to financial institutions and other persons or entities, including designated non-financial businesses and professions, that may be holding targeted funds or other assets, on their obligations to respect the delisting and unfreezing action.

(6) Upon receipt of communication of the delisting of a person or entity from the domestic list, any person, including financial institutions and designated non-financial businesses or professions, that may be holding targeted funds or other assets, must take action, without delay, to un-freeze the funds or other assets.

(7) Where the Committee decides that no reasonable grounds exist to revoke the designation, the Committee shall, within thirty days of receiving the application, instruct the Secretary to the Committee to inform the applicant of its decision.

(8) Within sixty days of receiving information of the decision under in sub-regulation (7), the applicant may apply to the High Court for review of that decision.

Authorization to access funds frozen pursuant to listing on Domestic List.

23. (1) A person listed on the Domestic List, and any interested party may make an application to the Committee, through the Secretary to the Committee and in the specified manner, for authorization to access the frozen funds or part thereof to cover—

(a) necessary and basic expenses, including payments for rent or mortgage, foodstuffs, monthly family expenses, medicines and medical treatment, taxes, insurance premiums and public utility charges;

(b) expenses exclusively for payment of reasonable professional fees, or reimbursement of incurred expenses associated with the provision of legal services;

(c) fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources;

(3) Where the Committee authorises the access to frozen funds or other assets under this regulation, the authorisation shall,—

(a) specify the extent of such access and shall be accompanied by information on the persons and entities holding such funds or assets subject to the order authorizing access; and

(b) be accompanied by clear guidance to any persons and entities holding such funds or assets subject to the order.

(4) Upon receipt of the authorisation under sub-regulation (3), any person holding frozen funds or other assets shall unfreeze the funds or assets and facilitate access to the funds or assets as specified.

(5) Where an application under this regulation is rejected, the Committee shall notify the applicant of its decision indicating the reasons thereof.

False positives.

24. (1) Any person or entity inadvertently affected by freezing or other measures due to a having the same or similar name with a designated person or entity on a domestic list, may make an application to the Committee that the person or entity involved is not the designated person or entity.

(2) An application under in sub-regulation (1) shall be made, in writing, to the Committee, through the Secretary to the Committee, and shall include information indicating that the applicant is not the designated person.

(3) Within sixty days from date of receipt of the application under this regulation, the Committee shall make a determination of the application and, in writing, notify the applicant of its decision.

(4) In making a determination under this regulation, the Committee may request for additional information from the applicant or other competent authorities.

(5) Where the Committee approves an application under this regulation—

(a) the Committee shall communicate its decision to all persons in accordance with the procedure under Regulation 5(2) and shall give guidance relating to the unfreezing of funds or other assets of the applicant;

(b) any person who holds, controls or has in his custody or possession the frozen funds or other assets of the applicant shall immediately unfreeze those funds or other assets.

Notices.

25. (1) The Committee shall notify—

(a) the competent parties or entities of—

(i) any amendment to the name of any person on the Sanctions List and the Domestic List; and

(ii) information required for inclusion in the list; and

(b) competent authorities or countries of any measures taken by the Committee in accordance with these Regulations.

(2) The Committee shall provide additional information including supporting documents which become available to it in relation to designated persons or entities to the Sanctions Committee.

Duty to report violation of Regulations.

26. A person who obtains information on the breach of any provision of these Regulations shall, within forty-eight hours after obtaining such information, inform the Committee or report the breach to the nearest police station.

PART IV — RESTRICTIONS ON TRAVEL, DEALINGS IN ARMS AND OTHER PROHIBITIONS

Entry of designated persons into Kenya.

27. (1) A person who is designated under these Regulations shall not enter or transit through Kenya, if the entry or transit would be contrary to a determination of the Security Council made under Article 41 of the Charter of the United Nations.

(2) Notwithstanding the provisions of any other written law, a Director of the Kenya Citizens and Foreign Nationals Management Service shall not grant a visa under the Kenya Citizenship and Immigration Act to a designated person unless he or she has obtained the advice of the Cabinet Secretary that the visa is consistent with the provisions of subregulation (1).

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(3) The provisions of this regulation shall not be construed to vary or waive the requirements imposed under the Kenya Citizenship and Immigration Act.

Exemptions allowed under the travel restrictions.

28. Notwithstanding the provisions of regulation 27(1), a designated person shall not be prevented from entering or transiting through Kenya where—

(a) the designated person is a citizen of Kenya;

(b) the entry or transit is necessary for compliance with a judicial process; and

(c) the 1267/1989 Sanctions Committee determines, on a case-by-case basis, that the entry or transit is justified.

Transactions with designated person in relation to arms prohibited

29. A person in Kenya or citizen of Kenya in any place outside Kenya shall not, directly or indirectly, enter into or deal in the supply, sale, transfer, carriage, delivery, training in or provision of technical assistance or any deal with any weapons or related materials of any type, knowing that the weapons or materials.

(a) are intended to be imported by a designated person; or

(b) are to be supplied or delivered to, or to the order of, a designated person.

Carriage of arms to designated person prohibited

30. A person shall not use a ship or aircraft in Kenya or use a Kenyan ship or aircraft in any place outside Kenya for the carriage of weapons or related materials from or to a designated person.

Availing resources to prohibited persons.

31. No person shall avail any funds, assets, economic resources, or financial and other related services, directly or indirectly, wholly or jointly, for the benefit of designated persons and entities, entities owned or controlled, directly or indirectly, by designated persons or entities, and persons and entities acting on behalf of, or at the direction of designated persons or entities unless licensed, authorised or otherwise notified in accordance with the relevant United Nations Security Council Resolutions.

Protection from liability.

32. No proceedings shall lie against any person or entity, including reporting institutions and relevant government agencies, in respect of effecting or implementing an order designating a person or entity or freezing the property or funds of a designated person or entity in good faith under these Regulations.

Penalties.

33. (1) A person or entity that contravenes the provisions of these Regulations commits an offence and shall be liable, on conviction, to a fine not exceeding three million shillings or to imprisonment for a term not exceeding seven years.

(2) Notwithstanding the penalty provided under sub-regulation (1), the Financial Reporting Centre, a supervisory body or self-regulatory body, as the case may be, may impose administrative sanctions on the financial institutions, designated nonfinancial businesses and professions for breach of the provisions of these Regulations, including—

(a) warning;

(b) administrative penalties of at least 100,000 shillings and not more than 3 million shillings for each violation;

(c) banning the violator from working in the sector related to the violation for the period determined by the supervisory authority;

(d) constraining the powers of the board of directors, supervisory or executive management members, managers or owners who are proven to be responsible of the violation including the appointment of temporary inspector;

(e) suspending managers, board of directors, and supervisory and executive management members who are proven to be responsible of the violation for a period to be determined by the supervisory authority or request their removal;

(f) suspend or restrict the activity or the profession for a period to be determined by the supervisory authority; or

(g) cancel the licence.

Internal rules.

34. A competent party and any person concerned with the implementation of these Regulations may prescribe administrative rules in relation to its employees, agents, or staff for the purposes of implementing the obligations imposed under these Regulations.

Return.

35. (1) A reporting institution and relevant government agency shall, within twenty-four hours of taking action or freezing funds or other assets of a designated person or entity, submit to the Committee and the Centre, in writing, a return in the format specified by the Centre in consultation with the Committee for that purpose.

(2) A return submitted under subregulation (1) shall include the following information—

(a) in the case of a reporting institution—

(i) the account number;

(ii) the name of the account owner or holder;

(iii) the time of freezing of all subject accounts;

(iv) the balance of the account as at the time of freezing the funds;

(v) the related accounts, if any, including the balance of monies in the accounts as at the time of freezing; and

(vi) an explanation as to the ground for the identification of related accounts; and

(b) in the case of a government agency—

(i) the nature and description of the property;

(ii) the name of the owner or holder of the property;

(iii) the mode and date of acquisition of the property by the owner; and

(iv) the location of the property.

(3) A reporting institution and relevant government agency shall notify the Committee and the Centre of any attempted dealing with property or funds against which a freezing action against such property or funds has been taken, within twenty-four hours of such attempt.

On-going monitoring of transactions.

36. A reporting institution shall regularly review the domestic or sanctions lists and monitor transactions in relation to entities specified in the lists on an on-going basis to mitigate against the risks of the occurrence of the financing of terrorism.

Powers to issue directives and guidelines

37. The Cabinet Secretary may issue such instructions, directions, guidelines or rules as he or she may consider necessary for the better carrying out of the provisions of these Regulations.

Revocation of L.N. No. 152 of 2023.

38. (1) The Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2023, are revoked.

(2) Despite the provisions of sub-regulation (1)—

(a) any criminal proceedings taken or pending against any person immediately before the commencement of these Regulations may be continued by or against that person as if instituted under these Regulations; or

(b) any investigation or inquiry instituted in terms of the revoked Regulations which was pending before the commencement of these Regulations shall be continued or disposed of as if instituted under these Regulations.

SCHEDULE

(r. 15(1))

ADDRESSES FOR DE-LISTING REQUESTS

PART A

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PART B

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Made on the 20th November, 2024.

KITHURE KINDIKI,
Cabinet Secretary for Interior and National Administration.