

(Legislative Supplement No. 66)

LEGAL NOTICE NO. 152

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, 2023

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PREAMBLE

WHEREAS the Republic of Kenya has enacted the Prevention of Terrorism Act, 2012, the Prevention of Organized Crimes Act, 2010 and the Proceeds of Crime and Anti-Money Laundering Act, 2009;

WHEREAS the Constitution recognizes the general rules of international law and treaties or convention ratified by Kenya to be part of the laws of Kenya;

WHEREAS Kenya is a member of the United Nations and as such bound by the decisions and Resolutions of the United Nations Security Council by virtue of Article 41 of the Charter of the United Nations;

WHEREAS the Republic of Kenya has ratified the United Nations Conventions aimed at addressing terrorism and terrorism financing;

WHEREAS Article 41 of the Charter of the United Nations provides that the Security Council may determine the measures not involving the use of armed force that may be employed to give effect to its decisions, and call upon the Members of the United Nations to apply such measures;

NOW THEREFORE, IN EXERCISE of the powers conferred by section 50 of the Prevention of Terrorism Act, 2012, 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 SUPPRESSION OF TERRORISM) REGULATIONS, 2023

PART I—PRELIMINARY

1. These Regulations may be cited as the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2023. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.
- “Act” means the Prevention of Terrorism Act, 2012; No. 30 of 2012.
- “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to internal security;
- “Centre” means the Financial Reporting Centre established under section 21 of the Proceeds of Crime and Anti-Money Laundering Act, 2009; No. 9 of 2009.
- “Committee” means the Counter Financing of Terrorism Inter-Ministerial Committee established under section 40D (1) 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 entity” means an entity designated pursuant to the Act 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, entity, organization, association or group of persons that is subject to targeted financial sanctions pursuant to the applicable United Nations Security Council Resolutions or an entity specified under section 3 of the Act;
- “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, 2009;
- “domestic list” means the list prepared and approved by the Committee under regulation 9 of these Regulations;
- “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;
- “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 any natural or legal person;

“reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009;

“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;

“Resolution 1267/1989 (Al-Qaida)” means Resolutions 1267 (1999) and 1989 (2011) of the Security Council and includes its successor resolutions;

“Resolution 1373” means Resolution 1373 (2001) of the Security Council and includes its successor resolution;

“Resolution 1988” means Resolution 1988 (2011) of the Security Council and includes its successor resolution;

“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 Al-Qaida sanctions list and the 1988 sanctions list or other similar list issued by the Security Council;

“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, 2009;

“terrorism financing” includes the offence specified under section 5 of the Act; and,

‘without delay’ means within twenty-four (24) hours of a designation by the United Nations Security Council or its relevant Sanctions Committee

3. These Regulations shall apply to—

Application.

- (a) an entity designated under Resolutions 1267/1989 (Al-Qaida) and successor resolutions;
- (b) an entity designated under Resolution 1373;
- (c) an entity designated under Resolution 1988 and successor resolutions; and
- (d) a specified entity in respect of which an order has been issued under section 3 of the Act.

PART II—RULES ON DESIGNATIONS

4. (1) The Kenyan Mission to the United Nations shall, without delay, submit to the Ministry responsible for matters relating to foreign

Circulation of
United Nations

affairs, all designations made by the Security Council and any sanctions list or other similar list issued in connection therewith. sanctions list.

(2) The Ministry shall, upon receipt of a designation or list under sub-regulation (1), submit such designation or sanctions list to the Cabinet Secretary without delay.

(3) The Cabinet Secretary or any member of the Committee designated in writing by the Cabinet Secretary for that purpose shall, without delay, upon receipt of the designation or sanctions list under sub-regulation (2), circulate it to the members of the Committee.

(4) The Committee shall, upon receipt of the designation or sanctions list under sub-regulation (3), circulate the designation or sanctions list without delay to—

- (a) the supervisory bodies specified under the First Schedule to the Proceeds of Crime and Anti-Money Laundering Act, 2009; No. 9 of 2009.
- (b) self-regulatory bodies under the Proceeds of Crime and Anti-Money Laundering Act, 2009;
- (c) the national security organs specified under Article 239 of the Constitution;
- (d) such law enforcement agencies as it may consider necessary; and
- (e) any other person who is authorized –
 - (i) to detect, freeze or seize the funds or the property of a designated entity under any written law; or
 - (ii) to take such action as may be necessary to give effect to Resolution 1267, 1373, 1988 or successor Resolutions.

(5) The Committee shall upon designation, communicate and provide clear guidance to financial institutions and other persons or entities, including Designated Non-Financial Businesses or Professions (DNFBPs), that may be holding targeted funds or other assets, on their obligations in taking action under freezing mechanisms.

(6) A supervisory body and the self-regulatory body, shall, upon receipt of the designations or sanctions list submitted to it under sub-regulation (4)—

- (a) circulate the designations or sanctions list, without delay to the reporting institutions under its purview for their information and action;
- (b) where necessary, provide guidance to the reporting institutions holding funds or other assets of a designated person, in relation to their obligations under these Regulations; and
- (c) ensure that the reporting institutions comply with the requirements of the designation.

5. (1) Where there are reasonable grounds to believe that a person or entity meets the relevant listing criteria, the Committee shall direct the Cabinet Secretary in charge of foreign affairs to propose to the relevant United Nations Sanctions Committee, through diplomatic channels, the name of a person or entity which meets the listing criteria.

Procedure for listing under UN Resolution 1267.

(2) 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.

(3) The Cabinet Secretary for matters relating to foreign affairs shall, in proposing the name of a person or entity under sub-regulation (1) to the relevant United Nations Sanctions Committee—

- (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) such other relevant information as may be required under any United Nations Security Council Resolution;
 - (iv) the nature of supporting evidence;
 - (v) supporting evidence or documents;

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

(4) Any information given under this regulation shall be given subject to conditions restricting the use and disclosure of the information communicated to the relevant United Nations Sanctions Committee, provided that the statement of case referred to in sub regulation (2)(b)(ii) shall, upon request, be disclosed by the relevant United Nations Sanctions Committee, except for the parts the Committee identifies as being confidential.

(5) The Committee may, for the purpose of sub regulation (1), 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.

PART III—AUTHORITY TO FREEZE

6. (1) Subject to these Regulations, the Committee shall make an order to freeze, without delay, the property or funds of a designated person or entity, whether held directly or indirectly by the person or entity or by a person or entity acting on behalf of or at the direction of the person or entity, in accordance with these Regulations.

Authority to freeze.

(2) Pursuant to sub regulation (1), all natural and legal persons within the country shall freeze, without delay and without prior notice, the funds or other assets of designated persons and entities.

(3) An order to freeze property or funds under sub regulation (1) shall include an on-going prohibition against the provision of funds or financial services to the designated person or entity against which the order is made.

(4) A designation or sanctions list circulated by the Cabinet Secretary or the Committee shall be deemed to authorise a reporting institution and any other person holding the funds or other assets of a designated person or entity to freeze, until further notice, such property or funds.

7. (1) A person to whom a designation or sanctions list is submitted under regulation 4 shall—

Action to be taken on the receipt of the Sanctions List.

- (a) freeze, without delay and 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 persons or entities;
 - (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities;
 - (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities;
- (b) within twenty hours of detecting the funds and freezing them, file a suspicious transaction report with the Centre in accordance with section 44 of the Proceeds of Crime and Anti- Money Laundering Act, 2009 or in such form as may be specified by the Committee; and
- (c) take such other action as may be necessary to give effect to Resolutions 1267, 1373 and 1988, and successor resolutions

No. 9 of 2009.

(2) A person who is required to take action under sub regulation (1) shall, without delay, inform the Committee, in writing in the form specified by the Committee, of the action taken.

8. (1) A person who claims to have a *bona fide* right to funds or assets frozen in terms of regulation 6 may apply to the Committee through the Cabinet Secretary for the exclusion of his or her interest from the freezing order.

Rights of *bona fide* third parties.

(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 Cabinet Secretary to make an assessment on the *bona fide* ownership or interest in the frozen funds.

9. (1) The Committee shall compile a domestic list comprising of specified entities under section 3 of the Act.

Domestic list.

(2) The domestic list prepared under sub-regulation (1) shall include, where available, the following information in relation to a specified entity—

- (a) the name, including any alias or title of the 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 circulate the domestic list compiled under sub-regulation (1) in accordance with regulation 4(4).

(4) The Committee shall circulate the domestic list to another State as specified in the relevant Resolution.

(5) A circulation under sub-regulation (3) shall, provide such identifying or specific information as set out under sub-regulation (2) in support of the circulation.

(6) The Committee shall, where it intends to propose a person or entity to the security council 1267(1999), 1989(2011) or 1988(2011), Committee for designation, identify such person, entity or organization through the procedure provided for under section 3 of the Act, as far as it is applicable to the requirements of Security Council 1267(1999), 1989(2011), or 1988(2011) Committees.

(7) Upon identification, the Committee shall circulate to the Security Council the specified entity together with any information which the Committee considers relevant, through the Cabinet Secretary responsible for foreign affairs, to take action as specified in the Security Council Resolution 1267(1999), 1989(2011), or 1988(2011) Committee and any of their successor resolutions.

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

Authority to solicit and collect information.

- (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.

11. (1) The Centre shall publish the domestic list on its website and make available to the public, an electronic version of the list.

Publication of Designation.

(2) The Committee may adopt such measures or make such arrangements for the prompt publication and dissemination of the domestic list.

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

Third Party Requests.

(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) Upon receipt of a request under sub-regulation (2), the Kenyan Mission or the Ministry shall, without delay, submit the request to the Cabinet Secretary for his consideration.

(4) The Cabinet Secretary shall, upon receipt of a request under sub-regulation (3) and without delay, submit the request to the Committee for a determination as to whether there are reasonable grounds to designate the entity in accordance with the Act and these Regulations.

(5) Where the Committee determines that there are reasonable grounds to designate that entity, the Cabinet Secretary shall, without delay;

- (a) make an order designating the entity;

- (b) make an order freezing the assets of the entity; and
- (c) circulate the order in accordance with regulation 4(4).

13. The Committee may instruct the Cabinet Secretary to request any other country to give effect to the actions initiated under the freezing mechanisms against any person or entity designated under this part, by circulating the domestic list containing 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 in the Security Council Resolutions 1373 (2001) and any of its successor resolutions.

Request to any other country.

14. (1) Where an order has been made freezing the property or funds of an entity, such entity shall not withdraw any monies or deal with such property or funds, unless—

Humanitarian exemptions; procedure for claiming.

- (a) the property or funds are necessary to cover the basic and necessary expenses or extraordinary expenses of the entity; and
- (b) the entity has applied for, and obtained an authorization from the Cabinet Secretary in accordance with this regulation.

(2) An entity under sub-regulation (1) which requires funds to cover its basic and necessary expenses may make an application for that purpose to the Cabinet Secretary in accordance with the guidelines and procedures set by the Committee, apply through a written request to be delisted.

(3) The Cabinet Secretary shall, subject to sub-regulation (4), consider an application submitted to him or her under sub-regulation (2) within seven days from the date of receipt of the application.

(4) The Cabinet Secretary shall, subject to sub-regulation (5)—

- (a) where an order freezing the property or funds of the person is made pursuant to a resolution of the Sanctions Committee;
- (b) where he or she finds merit in the application made under sub-regulation (2); and
- (c) prior to authorizing the withdrawal of monies requested under the application,

notify the appropriate Sanctions Committee of the application and request the Sanctions Committee to submit to him or her, its recommendations on the matter.

(5) The Cabinet Secretary may, within ten days from the date of notification of the Sanctions Committee under sub-regulation (4) and in the absence of negative recommendations from the Sanctions Committee, authorize the withdrawal of such monies as he or she may consider reasonable to cover the basic and necessary expenses of the entity.

(6) In authorizing the withdrawal of monies under sub-regulation (5), the Cabinet Secretary shall take into account the recommendations of the appropriate Sanctions Committee and shall not authorize such withdrawal where the Sanctions Committee makes

a negative recommendation in relation to the application for withdrawal.

(7) Where an application is for the withdrawal of funds to cover extraordinary expenses of the entity, the Cabinet Secretary shall not grant an authorization for the withdrawal of such funds unless he or she has obtained the prior written approval of the relevant Sanctions Committee.

(8) For purposes of this regulation—

“basic and necessary expenses” includes—

- (a) monthly family expenses, 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;
- (c) fees or service charge incurred for the routine holding or maintenance of frozen funds or other financial assets or economic resources;

“extraordinary expenses” means expenses not falling under paragraph (a) (b) and (c).

15. (1) A designated entity may make an application for de-listing by filing a petition with the appropriate Sanctions Committee in the case of Resolution 1267(1999), 1989(2011), or 1988(2011) Resolutions or to the Committee in the case of Resolution 1373(2001).

Application for the de-listing of a designated entity.

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

- (a) mistaken identity;
- (b) relevant and significant change of facts or circumstances including the inclusion of the applicant in a witness protection program;
- (c) the death dissolution or liquidation of a designated entity; or
- (d) any other circumstance which would show that the basis for designation no longer exists.

(3) Where the Sanctions Committee or the Committee deletes the name of a person or entity appearing on a sanctions list or domestic list, the Cabinet Secretary shall, within twenty four hours of the deletion, notify the institutions specified under regulation 4(4) of such deletion and direct the institutions to delete that name from the list circulated to them.

(4) A direction issued under sub-regulation (3) shall have the effect of revoking the freeze order and other sanctions imposed against the entity whose name is deleted from the list.

16. (1) A designated person or entity who claims—

Request for delisting by a designated person or entity.

- (a) not to be the person or entity on the designation list;
- (b) to longer meet the criteria for designation; or
- (c) to have been incorrectly designated,

may, in accordance with the guidelines and procedures set by the Committee, apply through a written request to be delisted.

(2) Within 30 days of receiving the request, the Committee shall consider the request under sub-regulation (1), and where reasonable grounds exist—

- (a) shall revoke the order of designation against the applicant; publish a notice of revocation in the Gazette; and
- (b) provide clear guidance to financial institutions and other persons or entities, including Designated Non-Financial Businesses and Professions (DNFBPs), that may be holding targeted funds or other assets, on their obligations to respect the revocation order.

(3) Where the Committee decides that no reasonable grounds exist to revoke the designation, the Committee shall, within 30 days of receiving the application, instruct the Cabinet Secretary to inform the applicant of its decision.

(4) Within 60 days of receiving information of the decision referred to in sub-regulation (3), the applicant may apply to the High Court for review of that decision.

17. Upon revocation of the order of designation—

- (a) all Financial institutions and other persons or entities, including 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; and
- (b) respect the revocation order.

Obligation of Financial Institutions and Designated Non-Financial Businesses and Professions to respect de-listing.

18. (1) Notwithstanding regulation 15, an entity designated pursuant to Resolution 1267/1989 (Al-Qaida) or Resolution 1988 may make a request for his or her de-listing in accordance with sub-regulation (2).

Request for de-listing under resolution 1267/1989 and 1988.

(2) A request made by a person designated—

- (a) under the Resolution 1267/1989 (Al-Qaida), 1904 and 2083 shall be submitted to the Office of the Ombudsperson through the address specified under Part A of the Schedule or through such other address as may be specified by the Sanctions Committee; or
- (b) under Resolution 1988, shall be submitted to the Focal Point for De-listing through the address specified under Part B of

the Schedule or through such other address as may be specified by the Sanctions Committee.

(3) A request for de-listing under sub-regulation (1) may be made on behalf of the designated person by his or her legal representative or estate.

(4) The Office of the Ombudsperson or Focal Point for De-listing shall, upon receipt of a request under sub-regulation (3), determine the request in accordance with the applicable procedures set out under the relevant Security Council Resolutions.

19. (1) A person whose funds has been affected by the freezing order issued in accordance with United Nations Security Council Resolution 1267 and 1373 may submit a request, in the manner specified by the Committee, to have such funds or part thereof released to cover—

Access to frozen funds or other assets.

- (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 Cabinet Secretary and if favorably 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 30 working days, and if favorably considered, the request shall be directed to the relevant Sanctions Committee established pursuant to Security Council Resolutions 1267 (1999), 1988 (2011) or 1989 (2011) for its decision.

(3) The Committee may, within 48 hours from date of submission of the request to the relevant UN Sanctions Committee, and in the absence of any negative decision received from such Committee, authorise the release of funds as applied for.

20. (1) The Committee shall notify—

Notices.

- (a) the competent parties or entities of—
 - (i) any amendment to the name of any person or entity 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.

21. 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.

Duty to report violation of Regulations.

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

22. (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.

Entry of designated persons into Kenya.

(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, 2011, 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 sub-regulation (1).

No. 12 of 2011.

(3) The provisions of this regulation shall not be construed to vary or waive the requirements imposed under the Kenya Citizenship and Immigration Act, 2011.

23. Notwithstanding the provisions of regulation 22(1), a designated person shall not be prevented from entering or transiting through Kenya where—

Exemptions allowed under the travel restrictions.

- (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 Al-Qaida United Nations Sanctions Committee determines, on a case-by-case basis, that the entry or transit is justified.

24. 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—

Transactions with designated person in relation to arms prohibited.

- (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.

25. 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.

Carriage of arms to designated person prohibited.

26. No person shall avail any funds, assets, economic resources, or financial and other related services, directly or indirectly, wholly or

Availing resources to prohibited

- 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. persons.
27. No proceedings shall lie against any entity, including reporting institutions and relevant government agencies, in respect of effecting or implementing an order designating an entity or freezing the property or funds of a designated entity in good faith under these Regulations. Protection from liability.
28. 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. Penalties.
29. A competent party and any person concerned with the implementation of these Regulations may provide administrative rules in relation to its employees, agents, or staff for the purposes of implementing the obligations imposed under these Regulations. Internal rules.
30. (1) A reporting institution and relevant government agency shall, within twenty four hours of receipt of a notice of an order to freeze the funds or property of a designated entity, submit to the Cabinet Secretary and the Centre in writing, a return in the format specified by the Centre in consultation with the Cabinet Secretary for that purpose. Return.
- (2) A return submitted under sub-regulation (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 Cabinet Secretary and the Centre of any attempted dealing with property or funds against which an order freezing such property or funds has been issued, within twenty-four hours of such attempt.

31. 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.

On-going monitoring of transactions.

32. 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.

Powers to issue directives and guidelines.

33. (1) The Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2022, are revoked.

Revocation of L.N. No. 211 of 2013.

(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. 18(2)(a) and (b))

ADDRESSES FOR DE-LISTING REQUESTS

PART A

Office of the Ombudsperson
Room TB-08041D United Nations
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