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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

L.D.B. 7/2001.

THE UNITED NATIONS ACT, No. 45 OF 1968

REGULATIONS made by the Minister of External Affairs, under Section 2 of the United Nations Act, No. 45 of 1968.

PROF. G. L. PEIRIS,
Minister of External Affairs.

Colombo,
30th May, 2012.

Regulations

1. These regulations shall be cited as the United Nations Regulations No. 2 of 2012.

2. The United Nations Security Council Resolution 1267 (1999) and the modifications and strengthening of the Resolution's sanctions regime by subsequent resolutions including 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008), 1904 (2009), 1988 (2011) and 1989 (2011), which set out wide-ranging strategies to combat terrorism and in particular measures to be imposed against the Afghan faction known as the Taliban, (which also calls itself the Islamic Emirate of Afghanistan), impose upon Member States of the United Nations a series of obligations to apply sanction measures to any natural or legal person, group or entity associated with the Al-Qaida or Taliban as designated by the Sanctions Committee (hereinafter referred to as the "designated person") and whose name appears on the "Consolidated List" adopted by the Sanctions Committee The Security Council of the United Nations, acting under Chapter VII of the Charter of the United Nations, on 15th October, 1999, unanimously adopted Resolution 1267 (1999).

3. The objective of these regulations is to facilitate the implementation of obligations, relating to the freezing of funds under paragraph 4(b) and related paragraph of the United Nations Security Council Resolution 1267 (1999) and the modifications and strengthening set out in the aforesaid subsequent United Nations Security Council resolutions, in particular paragraph I of Resolutions 1988 (2011) and 1989 (2011), within Sri Lanka and thereby specify a means to comply with the aforesaid obligations.

4. (1) There shall for the purpose of these regulations be a Competent Authority who shall be appointed by the Minister in consultation with the Minister to whom the subject of Defence has been assigned.

(2) The Competent Authority shall, for the purpose of providing information to the public, publish in the Gazette.

(a) the first Consolidated List immediately after coming into operation of these regulations ; and

(b) any subsequent amendments immediately upon such amendments being made to such List.

5. No person shall deal with any funds, other financial assets or economic resources that belong to, or are wholly or jointly owned, held or controlled by a designated person or any other person or entity for and on behalf of, or at the direction of, such designated person ;

Provided however, that any person may credit a frozen account with interest or other earnings due on the account or payments due under contracts, agreements or obligations that were concluded or arose before the account became frozen or other funds transferred by a third party to the account, as long as the funds so credited are also frozen.

6. No person shall make available any funds, other financial assets or economic resources directly or indirectly, to or for the benefit of, a designated person or any other person or entity for and on behalf of, or at the direction of, such designated person.

Provided however that a person may credit a frozen account with interest or other earnings due on the account or payments due under contracts, agreements or obligations that were concluded or arose before the account became frozen or other funds transferred by a third party to the account, as long as the funds so credited are also frozen.

7. Upon receiving information that a person, group or entity in Sri Lanka, or being a national or resident of Sri Lanka, has been designated by the Sanctions Committee, the Competent Authority shall make all reasonable efforts to inform, as soon as possible after the designation, the person, group or entity so designated of the fact of :-

(i) designation and its implications ;

(ii) the review procedure and information on the de-listing process ;

(iii) the publicly releasable information concerning the reasons for designation.

8. Any person referred to in regulation 7 may apply to the Competent Authority for assistance in seeking a de-listing by the Sanctions Committee of the designation. The Competent Authority shall forward the request to the Sanctions Committee and act upon it in a manner consistent with the standards and procedures set out in United Nations Security Council Resolutions that relate to the de-listing of designated persons in terms of United Nations Security Council Resolution 1267 (1999) and aforesaid subsequent resolutions.

9. (1) The Competent Authority may, after providing notification to the Sanctions Committee of his intention to do so and complying with the Sanctions Committee's requirements, grant a specific authorization to lift a prohibition in regulations 5 or 6 so that specific funds may be released or assets may be made available and decide on the conditions appropriate with respect to the authorization.

(2) The authorization may be revoked or varied at any time in accordance with Sanctions Committee requirements. The Competent Authority shall act in accordance with the standards and procedures set out in United Nations Security Council Resolutions 1452, 1735 and 1904 and any other United Nations Security Council resolutions that relate to access to funds frozen pursuant to United Nations Security Council Resolution 1267 (1999) and aforesaid subsequent resolutions.

10. (1) A person claiming that he is not the designated person may apply to the Competent Authority requesting the issue of a certificate stating that such person is not the person whose name appears on the Consolidated List of the Sanctions Committee. The Competent Authority shall, upon making such inquiries as are appropriate in respect thereof and if it is established that the applicant is not a designated person, issue a certificate to the applicant.

(2) Where the Competent Authority decides to refuse the issue of a certificate under Sub section (1) he shall communicate his decision to the applicant with the reasons therefore.

11. Any person aggrieved by the decision of the Competent Authority under regulation 10 may apply against such decision to the High Court, within thirty days of the date on which the decision is communicated to him, for review thereof.

12. (1) Any person shall, in addition to any obligation under regulations 5 and 6 in relation to any designated person—

- (a) inform the Competent Authority or the Financial Intelligence Unit as the case may be, if he knows or suspects that an existing customer, or customer or any other person with whom he has done business, or any other person known to him is a designated person or is a person acting on behalf of a designated person ;
- (b) provide the Competent Authority or the Financial Intelligence Unit as the case may be with information regarding :
 - (i) the status of the funds, freezing actions under regulation 5 and 6 and any other actions taken with respect to the funds ;
 - (ii) the nature and amount or quantity of any funds, other financial assets or economic resources held by the relevant institution for the designated person, or transactions executed, or held by a person for the designated person ; and
 - (iii) any other information that would facilitate compliance with these regulations.
- (c) cooperate with the Competent Authority or the Financial Intelligence Unit as the case may be in any verification of this information.

(2) Any information provided or received in accordance with this regulation shall be used only for the purposes for which it was provided or received. Any information provided to the Competent Authority or to the Financial Intelligence Unit in accordance with this regulation shall not be treated as a breach of any restriction imposed by any written law or otherwise.

13. (1) Any person holding funds, other financial assets or economic resources, which are subject to a freezing action under regulation 5 or 6, pursuant to an obligation under these regulations, shall take all reasonable efforts, after the freeze has been effected, to provide notification to the person whose funds, other financial assets or economic resources have been frozen of such freezing action and the procedures available to seek a lifting of the freeze.

- (2) The person holding the funds shall also provide immediate notification to the Financial Intelligence Unit. The Financial Intelligence Unit shall immediately inform the Competent Authority of such fact.
- (3) The notification under paragraph (1) shall be made to the legal domicile of the affected person within two weeks of such freezing.

- (4) If the person affected by the freeze is domiciled outside Sri Lanka, the notice of the freezing action shall be provided, through a request to the Competent Authority, to the government of the country in which the affected person is domiciled with a request that service be made.

14. Any person holding funds, other financial assets or economic resources, which are subject to a freezing action under regulation 5 or 6, pursuant to an obligation under these regulations, shall also be prohibited from providing notice at any time prior to the freezing action, to the designated person that his or its funds, other financial assets or economic resources are to be frozen or assets are not being made available.

15. (1) Any person who fails to comply with the obligations or contravenes the provisions set forth in regulations 5, 6 or 14 of these regulations shall be guilty of an offence under these regulations and shall, on conviction by the High Court, be liable to imprisonment for a period not exceeding two years or to a fine not exceeding rupees one million or to both such fine and imprisonment.

- (2) Any person who fails to comply with the requirements set out in regulation 12 or 13 of these regulation shall be guilty of an offence under these regulations and shall on conviction by the High Court, be liable to imprisonment for a period not exceeding one year or to a fine not exceeding rupees five hundred thousand or to both such fine and imprisonment.

16. (1) the Competent Authority, Financial Intelligence Unit and the Minister shall refer any matter or information relevant to violation or possible violation of an obligation under these regulations to the appropriate law enforcement agencies and in the case of institutions, also to their respective supervisory authorities for consideration whether or not the administrative sanctions ought to be imposed.

- (2) The Competent Authority shall consult with law enforcement agencies, the Financial Intelligence Unit, supervisory authorities and other appropriate agencies and develop a plan that shall be implemented for monitoring compliance and enforcing sanctions related to these regulations.
- (3) The Competent Authority may issue directives for the implementation of practices and enforcement of obligations under these regulations.

17. For the purposes of these regulations -

“consolidated List” means the List adopted by the Sanctions Committee in terms of the United Nations Security Council Resolution 1267 (1999), and includes any subsequent amendments to such List since 1999 ;

“deal with” in respect of funds and other financial assets means, to be able to use, alter, move, allow access to, transfer or deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or make any other change that would enable such funds and assets to be used, including portfolio management ; in respect of economic resources, exchange or use to obtain funds, goods or services in any way including by selling, hiring or mortgaging the resources ;

“Financial Intelligence Unit” means the Financial Intelligence Unit established under the Financial Transactions Reporting Act, No. 6 of 2006 ;

“freezing” means taking such action as to prevent the dealing with funds, other financial assets or economic resources or make them available to be dealt with ;

“funds, other financial assets and economic resources” shall include assets of every kind, whether tangible or intangible, movable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers’ cheques bank cheques, money orders, shares, securities, bonds, drafts and Letters of Credit including ;

- (i) all interest, dividends or other income or value accruing from or generated by such funds, assets or economic resources ; and
- (ii) indirectly owned funds, assets or economic resources,

Which belong to, are held by or are wholly or jointly owned or controlled directly or indirectly by a designated person or any person or entity acting for and on behalf of, or at the direction of, such designated person ; economic resources shall also include assets of every kind which are not funds but can be used to obtain funds, goods or services ;

“entity” means abody corporate, a trust, a partnership, a fund, an unincorporated association or organization ;

“High Court” means the High Court established under Article 154P of the Constitution, for the Western Province holden in Colombo ;

“institution” shall have the same meaning as in the Financial Transactions Reporting Act, No. 6 of 2006 ;

“Minister” means the Minister to whom the subject to External Affairs had been assigned under Article 44 of the Constitution ;

“person” shall have the same meaning as in the Interpretation Ordinance (Chapter 2) ;

“Sanctions Committee” means -

- (a) the committee established pursuant to United Nations Security Council Resolution 1267 (1999) and 1989 (2011), the Al-Qaida Sanctions Committee which has responsibility in relation to sanctions for Al-Qaida and associated persons and entities ;
- (b) the committee established pursuant to United Nations Security Council Resolution 1988 (2011) and 1989 (2011), the Taliban Sanctions Committee which has responsibility in relation to sanctions for the Taliban ;
or
- (c) both such Committees.