

Seychelles

Prevention of Terrorism Act, 2004

## Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2015 Statutory Instrument 39 of 2015

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## Seychelles

### Prevention of Terrorism Act, 2004

# Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2015

## Statutory Instrument 39 of 2015

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*[SI 39 of 2015]*

### Part I – Preliminary

#### 1. Citation

These Regulations may be cited as the Prevention of Terrorism (Implementation of United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2015.

#### 2. Interpretation

In these Regulations, unless the context otherwise requires—

- (1) "**Act**" means the Prevention of Terrorism Act, 2004;
- (2) "**AML Act**" means the Anti-Money Laundering Act, 2006;
- (3) "**Committee**" means the National Countering Financing of Terrorism Committee established under regulation 4;
- (4) "**competent authority**" means a supervisory authority, security, intelligence or law enforcement agency, or other relevant regulatory or administrative agency of Seychelles;
- (5) "**dealing**" in relation to property, means any of the acts specified in section 3(1)(a) to (c) of the AML Act;
- (6) "**designated entity**" means a person or other entity designated pursuant to the applicable United Nations Security Council Resolutions adopted under Article 41 of Chapter VII of the United Nations Charter;
- (7) "**designation**" or "listing" means the identification of a person or other entity that is subject to targeted financial sanctions pursuant to the applicable United Nations Security Council Resolutions or the making of a specified entity order under section 3 of the Act;
- (8) "**Director**" means the Director of Financial Intelligence Unit appointed under section 17 of the AML Act;
- (9) "**entity**" has the meaning assigned to it by section 2 of the Act;
- (10) "**financing of terrorism**" has the meaning assigned to it by section 2 of the AML Act;

- (11) "**Financial Intelligence Unit**" means the Financial Intelligence Unit established under Part 3 of the AML Act;
- (12) "**freeze**" means to prevent or restrain property from being dealt with, without affecting the ownership thereof;
- (13) "**Minister**" means the Minister responsible for internal affairs;
- (14) "**non-profit organisation**" means an association as defined in section 2 of the Registration of Associations Act;
- (15) "**PoC Act**" means the Proceeds of Crime (Civil Confiscation) Act, 2008;
- (16) "**property**" means any funds or other assets, including, but not limited to, financial assets, economic resources, property 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 funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets;
- (17) "**property of a listed entity**" includes property owned or controlled, directly or indirectly, by or on behalf of that entity, including property that is derived or generated from such property and property of entities acting on behalf or at the direction of that entity;
- (18) "**regulated non-profit organisation**" means a non-profit organisation which is the subject of a current determination by the Minister under regulation 19(1) of these Regulations;
- (19) "**reporting entity**" has the meaning assigned to it by section 2 of the AML Act and includes a regulated non-profit organisation;
- (20) "**Resolution 1267/1989 (Al-Qaida)**" means Resolutions 1267 (1999) and 1989 (2011) of the Security Council and includes their successor resolutions, including Resolutions 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008), 1904 (2009), 2083 (2012) and 2161 (2014);
- (21) "**Resolution 1373**" means Resolution 1373 (2001) of the Security Council and includes its successor resolutions;
- (22) "**Resolution 1718 (DPRK)**" means Resolution 1718 (2006) of the Security Council and includes its successor resolutions, including Resolutions 1874 (2009), 2087 (2013) and 2094 (2013);
- (23) "**Resolution 1988 (Taliban)**" means Resolution 1988 (2011) of the Security Council and includes its successor resolutions, including Resolutions 2082 (2012) and 2160 (2014);
- (24) "**Sanctions Committee**" means a committee of the Security Council established under a Resolution of the Security Council;
- (25) "**sanctions list**" means the 1267/1989 Al-Qaida Sanctions list and the 1988 Sanctions list or other similar lists issued by the Security Council;
- (26) "**Security Council**" means the Security Council of the United Nations established under Article 7 of Chapter III of the United Nations Charter;
- (27) "**Seychelles list**" means the list compiled by the Committee and distributed under regulation 11;
- (28) "**specified entity**" has the meaning assigned to it by section 2 of the Act;
- (29) "**supervisory authority**" means a supervisory authority of a reporting entity;
- (30) "**terrorist group**" has the meaning assigned to it by section 2 of the Act;
- (31) "**United Nations list**" means a United Nations designation or sanctions list received and distributed under regulation 8.

### 3. Application

These Regulations shall apply to designated entities and specified entities.

## Part II – Implementation Committee

### 4. National Countering Financing of Terrorism Committee

- (1) There is hereby established a Committee to be known as the National Countering Financing of Terrorism Committee.
- (2) The Committee shall consist of—
  - (a) the Minister, who shall be the chairperson;
  - (b) the Minister responsible for finance, or his or her representative;
  - (c) the Minister responsible for foreign affairs, or his or her representative;
  - (d) the Attorney-General;
  - (e) the Commissioner of Police;
  - (f) the Director; and
  - (g) a Secretary to the Committee, to be nominated by the Minister.

### 5. Functions of Committee

- (1) The functions of the Committee shall be to—
  - (a) implement [Resolution 1267/1989](#), 1373, 1718 and 1988, resolutions relating to the suppression of financing of terrorism and the prevention, suppression and disruption of the proliferation of, and financing of, dealings with weapons of mass destruction and such other related resolutions in accordance with these Regulations;
  - (b) formulate and supervise the implementation of the National Strategy and Action Plan on Countering Financing of Terrorism;
  - (c) advise the Minister and the Attorney-General in the performance of their functions under the Act, in accordance with these Regulations;
  - (c) advise the Registrar of Associations in protecting the non-profit organisation sector from misuse by terrorist groups, in accordance with the Registration of Associations Act and these Regulations;  
*[Note: section 5(1)(c) is repeated in the Gazette.]*
  - (d) advise the National Anti-Money Laundering Committee and the Financial Intelligence Unit to ensure a coordinated and effective approach to implementation and enforcement of the Act, the AML Act and the PoC Act; and
  - (e) perform such other functions as may be conferred on it by or any other written law.
- (2) The Secretary to the Committee shall notify relevant competent authorities of measures taken by the Committee in accordance with these Regulations.

### 6. Powers of Committee

- (1) The Committee shall have all the powers necessary for the performance of its functions under these Regulations and shall regulate its own procedure for the conduct of its business.

- (2) Without prejudice to the generality of subregulation (1), the Committee shall have the powers to—
  - (a) meet and conduct business remotely;
  - (b) establish such sub-committees or working groups as it may consider necessary;
  - (c) co-opt any person to the Committee or nominate any person to its subcommittees or working groups on an ad hoc basis; and
  - (d) recommend the issuance of such directives, guidelines, or instructions as the Committee may consider necessary for the effective implementation of these Regulations.

## 7. Confidentiality

A member of the Committee or any other person shall not, without the consent of the Committee in writing, publish or disclose to any person other than in the course of his or her duties, the contents of any document, communication or information which relates to, and which has come to his or her knowledge in the course of his or her duties under these Regulations.

## Part III – Designation and listing of terrorist groups

### 8. United Nations designation and sanctions lists

- (1) The Seychelles Mission to the United Nations shall immediately submit to the Ministry responsible for foreign affairs, all designations made by the Security Council and any sanctions list or other similar list issued in connection therewith.
- (2) The Ministry responsible for foreign affairs shall, immediately upon receipt of a list under paragraph (1), submit such list to the Secretary to the Committee and the Director.
- (3) The Secretary to the Committee shall, immediately upon receipt of a list under subregulation (2)—
  - (a) circulate the list to the other members of the Committee; and
  - (b) cause the list to be published on the website of one or more competent authority.
- (4) The Director shall, immediately upon receipt of a list under subregulation (2), circulate the list to—
  - (a) all supervisory authorities;
  - (b) the Registrar of Associations;
  - (c) such other competent authorities as the Director or the Committee may consider necessary; and
  - (d) any other person who is authorized—
    - (i) to detect, freeze or seize 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 1267/1989](#), 1373, 1718, 1988 or such other relevant Resolutions.
- (5) An entity described in subregulation (4)(a) to (c) shall, immediately upon receipt of a list submitted to it under subregulation (4)—
  - (a) circulate the list to the entities under its purview for their information and action;
  - (b) where necessary, provide guidance to the entities holding property of a listed entity, in relation to their obligations under these Regulations; and
  - (c) ensure that the entities comply with the requirements of these Regulations.

## 9. Designated entities deemed to be terrorist groups

Where a United Nations list is distributed under regulation 8—

- (a) a designated entity listed therein shall be deemed to be an entity that has, as one of its activities and purposes, the commission of, or a facilitation of the commission of, a terrorist act;
- (b) the Minister shall declare in a regulation made under section 42(2) of the Act that there are reasonable grounds to believe that each entity designated in the list is engaged in terrorist activity.

## 10. Domestic designations and third country requests

- (1) The Committee may, on its own motion or upon request by a country pursuant to Resolution 1373, advise the Attorney-General that there appear to be reasonable grounds to support a recommendation to the Minister to make an Order declaring any entity as a specified entity under section 3 of the Act.
- (2) Upon publication of an Order referred to in subregulation (1) declaring an entity as a specified entity, the Committee shall, as soon as practicable—
  - (a) consider whether to propose the designation of that entity by—
    - (i) another country or countries, pursuant to Resolution 1373; or
    - (ii) the relevant Sanctions Committee; and
  - (b) where that entity is in Seychelles, make reasonable efforts to inform the entity of—
    - (i) the designation and its implications;
    - (ii) any publicly-releasable information concerning the reasons for designation; and
  - (c) the procedure for de-listing in accordance with regulation 15.
- (3) A designation or request for designation by another country pursuant to Resolution 1373 shall be submitted to—
  - (a) the Seychelles Mission in that country; or
  - (b) where a Seychelles Mission does not exist in that country, the Ministry responsible for foreign affairs in Seychelles.
- (4) Upon receipt of a request under subregulation (3), the Seychelles Mission or the Ministry shall immediately submit the request to the Committee for consideration and the Committee shall, as soon as practicable, consider whether there are reasonable grounds to advise the Attorney-General to recommend to the Minister that an Order be made declaring an entity as a specified entity under section 3 of the Act.

## 11. Seychelles list

- (1) The Committee shall compile and maintain a Seychelles list comprising—
  - (a) in Part 1 (Domestic list), specified entities designated under section 3 of the Act; and
  - (b) in Part 2 (International list), specified entities deemed by reason of the operation of section 42(3) to have been designated under section 3 of the Act.
- (2) The Seychelles list shall include, where available, the following information in relation to a specified entity—
  - (a) name including any alias or title of the entity;
  - (b) place and date of birth, establishment or incorporation, as the case may be;

- (c) original or acquired nationality of persons;
  - (d) passport, identity card, or registration numbers, as the case may be;
  - (e) sex, in case of individuals;
  - (f) residential and postal addresses and registered address in the case of an incorporated entity;
  - (g) occupation or business;
  - (h) telephone numbers and other contact details; and
  - (i) any other information which the Committee may consider relevant.
- (3) The Committee shall, immediately upon publication in the *Gazette* of an Order under section 3 of the Act or a regulation under section 42(2) of the Act, update the Seychelles list.
- (4) The Committee shall update the Seychelles list from time to time to reflect updated or additional information in relation to specified entities.
- (5) When the Seychelles list is updated—
- (a) the Secretary to the Committee shall immediately cause the updated Seychelles list to be published on the website of one or more competent authority;
  - (b) the Director shall circulate the updated Seychelles list in accordance with regulation 8(4);
  - (c) a supervisory authority shall circulate the updated Seychelles list in accordance with regulation 8(5);
  - (d) the Ministry responsible for foreign affairs shall submit the updated Seychelles list to the relevant Sanctions Committee and countries.

## 12. Review and de-listing of designated and specified entities

- (1) The Committee shall review Part 1 (Domestic list) of the Seychelles list compiled under regulation 11(1)(a) annually to consider whether there are still reasonable grounds, as set out in section 3(1) of the Act for any Order in relation to each specified entity to continue to apply.
- (2) The Committee shall, if satisfied that there exists no reasonable grounds for any Order in relation to a specified entity to continue, advise the Attorney-General in the discharge of his or her functions under section 3(8) of the Act, to make an appropriate recommendation to the Minister.
- (3) A specified entity may apply to the Attorney-General seeking revocation of the order made in relation to that entity in accordance with section 3(3) of the Act.
- (4) The Attorney-General may, on receipt of an application under subregulation (3), refer the application to the Committee for its examination and report.
- (5) A designated entity may make an application to the relevant Sanctions Committee for de-listing.
- (6) An application made to a Sanctions Committee under subregulation (5) or to the Attorney-General under section 3(3) of the Act may be made 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 or specified entity; or
  - (d) any other circumstance which would show that the basis for designation no longer exists.

- (7) Where the Sanctions Committee deletes the name of an entity appearing on a sanctions list, the Director shall, within 24 hours of notification of the deletion, circulate notice of the deletion in accordance with regulation 8(4).
- (8) A notice of deletion circulated under subregulation (7) shall have the effect of revoking any freeze and any other sanction imposed against the entity whose name is deleted from the list.
- (9) Notwithstanding subregulation (5), an entity designated pursuant to Resolutions 1267/1989 (Al-Qaida) or Resolutions 1988/2082 (Taliban) may make a request for his or her de-listing in accordance with subregulation (10).
- (10) A request made by an entity designated—
  - (a) under Resolutions 1267/1989 (Al-Qaida) shall be submitted to the Office of the Ombudsperson through the address specified under Part A of the First Schedule appended to these Regulations 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 First Schedule appended to these Regulations or through such other address as may be specified by the Sanctions Committee.

#### **Part IV – Authority and obligation to freeze**

##### **13. Authority to freeze property of designated and specified entities**

- (1) The distribution of a United Nations list or the Seychelles list in accordance with these Regulations shall be deemed to authorise any person or other entity who is in possession or control of property of a listed entity to freeze such property until further notice.
- (2) Subregulation (1) shall not affect any existing authority to freeze that is conferred upon a competent authority by the Act, the AML Act or the PoC Act.

##### **14. Action to be taken on receipt of lists**

- (1) Upon distribution of a United Nations list or the Seychelles list in accordance with these Regulations, every person shall take immediate steps in accordance with section 35 of the Act to ascertain whether he or she is in possession or control of property of a listed entity or holds any information regarding a transaction or proposed transaction in respect of any such property.
- (2) Every person or other entity who identifies property or information described in subregulation (1) shall—
  - (a) immediately, without notice to the listed entity, take the necessary measures to freeze any such property until further notice from the Financial Intelligence Unit;
  - (b) within 24 hours, disclose the details of the property or information to the Financial Intelligence Unit in the Form provided in the Second Schedule appended to these Regulations; and
  - (c) on the advice of the Financial Intelligence Unit, take such other action as may be necessary to give effect to Resolutions 1267/1989, 1373, 1718 and 1988.
- (3) Compliance with subregulation (2)(b) shall be deemed sufficient compliance—
  - (a) with section 35(1) of the Act; and
  - (b) in the case of a reporting entity or supervisory authority or auditor, with the obligation to file a suspicious transaction report under section 10(1) or section 11 of the AML Act, as the case maybe.

- (4) Every person or other entity who has frozen property under subregulation (2) shall notify the Financial Intelligence Unit of any attempted dealing with such property within 24 hours of such attempt.
- (5) The Director shall report to the Committee on all freezes effected under this regulation.

## **15. Periodic reporting by financial institutions**

Every financial institution which is required to make quarterly reports under section 35(2) of the Act shall —

- (a) prepare the report on the basis of the most recent United Nations list and Seychelles list; and
- (b) provide an electronic copy of the report to the Financial Intelligence Unit.

## **16. Persons inadvertently affected by freezing mechanism**

- (1) A person or other entity who claims to have been inadvertently affected by a freeze effected under regulation 14(2) may make an application to the Minister to unfreeze specified property.
- (2) An application made under subregulation (1) shall be in writing and supported by sufficient information to demonstrate to the satisfaction of the Minister that—
  - (a) the entity is not a terrorist group;
  - (b) the entity has an enforceable interest in the specified property; and
  - (c) the specified property is not owned or controlled by or on behalf of a terrorist group.
- (3) An application made under subregulation (1) shall be determined by the Minister, after consultation with the Committee, within 10 days from the date of receipt of the application.
- (4) Where the Minister determines that specified property has been inadvertently frozen, the Director shall, within 24 hours of the determination, circulate notice of the determination in accordance with regulation 8(4).
- (5) A notice of determination circulated under subregulation (4) shall have the effect of revoking any freeze in relation to the property specified in the notice.

## **17. Humanitarian exemptions**

- (1) An entity which has been designated as a terrorist group shall not deal with any property in Seychelles unless—
  - (a) the property is necessary to cover the basic and necessary expenses or extraordinary expenses of the entity; and
  - (b) the entity has applied for and obtained an authorisation in accordance with this regulation.
- (2) An entity which requires funds to cover its basic and necessary or extraordinary expenses may make an application for that purpose to the Committee.
- (3) The Committee shall consider an application made under subregulation (2) within seven days from the date of receipt of the application and make a preliminary recommendation to the Minister.
- (4) Where the applicant is a specified entity, the Minister may, if he or she considers necessary and reasonable the withdrawal of funds for the purpose referred to in subregulation (2), authorise the withdrawal of such funds.
- (5) Where the applicant is a designated entity, the Minister shall—
  - (a) if he or she finds merit in an application made under subregulation (2); and

- (b) prior to authorising the withdrawal of funds requested under the application, notify the relevant Sanctions Committee of the application and request the Sanctions Committee to submit to him or her its recommendations on the matter.
- (6) The Minister may, within 10 days from the date of notification of the Sanctions Committee under subregulation (5) and in the absence of negative recommendations from the Sanctions Committee, authorise the withdrawal of such funds as he or she considers necessary and reasonable to cover the basic and necessary expenses of the entity.
- (7) Where an application is for the withdrawal of funds to cover extraordinary expenses of a designated entity, the Minister may grant an authorisation for the withdrawal of such funds as he or she considers necessary and reasonable for that purpose only with the prior written approval of the relevant Sanctions Committee.
- (8) For the purposes of this regulation—
  - (a) "basic and necessary expenses" includes—
    - (i) monthly family expenses, payments for foods, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
    - (ii) reasonable professional fees and reimbursement of expenses related to the provision of legal services; or
    - (iii) fees or service charges incurred for the routine holding or maintenance of frozen funds or other property;
  - (b) "extraordinary expenses" means any expenses that are not basic or necessary expenses.
- (9) Any action taken in good faith to give effect to an authorisation granted by the Minister under this regulation shall not constitute an act of financing of terrorism.

## **Part V – Protection of non-profit organisation sector**

### **18. Strategic planning and information-gathering**

- (1) The Committee shall, in formulating the National Strategy and Action Plan on Countering Financing of Terrorism, have regard to the objective of ensuring that terrorist groups are prevented from misusing non-profit organizations—
  - (a) to pose as legitimate entities;
  - (b) to exploit legitimate entities as conduits for the financing of terrorism; or
  - (c) to conceal or disguise the diversion of funds for the purposes of financing of terrorism.
- (2) The Registrar of Associations shall submit periodic reports to the Committee on the activity, size, and other relevant features of the non-profit organisation sector, including but not limited to a specific report on each non-profit organisation that accounts for—
  - (a) a significant portion of the financial resources under the control of the non-profit organisation sector; and
  - (b) a substantial share of the non-profit organisation sector's international activities.

### **19. Regulated non-profit organisations**

- (1) The Minister may, in consultation with the Registrar of Associations and the Director, determine that any non-profit organisation that has been the subject of a report under regulation 18(2), or is otherwise regarded by the Minister as potentially vulnerable to misuse by terrorist groups, shall be a regulated non-profit organisation.

- (2) Where the Minister makes a determination under subregulation (1)—
  - (a) the Registrar of Associations shall immediately inform the regulated nonprofit organisation of the declaration and its implications; and
  - (b) the Director shall circulate notice of the determination in accordance with regulation 8(4).
- (3) A regulated non-profit organisation shall be deemed for all purposes to be a reporting entity.
- (4) A determination made under subregulation (1) may be reviewed by the Minister at any time on his or her own motion or upon the application of a regulated non-profit organisation.

## **Part VI – Miscellaneous**

### **20. Right of appeal**

An appeal against the determinations of the Minister on applications under regulation 16, regulation 17, or regulation 19(4) shall lie to the Supreme Court in accordance with the Appeal Rules (S.I. 11 of 1961) made under the Courts Act ([Cap 52](#)).

### **21. Protection from liability**

No proceedings shall lie against any person, including reporting entities and competent authorities, in respect of any action taken in good faith for the purpose of implementing these Regulations.

### **22. Internal rules**

A competent authority and any person concerned with the implementation of these Regulations may lay down administrative instructions in relation to procedure to be followed by its employees, agents, or staff for the purposes of implementing the obligations imposed under these Regulations.

### **23. Penalties**

- (1) A person who contravenes the provisions of these Regulations commits an offence and shall be liable, on conviction, to a fine not exceeding SCR 20,000 or to imprisonment for a term not exceeding two years.
- (2) Subregulation (1) shall not operate to prevent the prosecution of a person for an offence under any other written law in respect of an act or omission that also constitutes a contravention of these Regulations.

## **First Schedule (Regulation 12(8)(a) and (b))**

### **Addresses for de-listing requests**

#### **Part A**

Office of the Ombudsperson Room TB-08041D United Nations New York, NY 10017 United States of America Tel: +1 212 963 2671 Fax: +1 212 963 1300/3778 E-mail: [ombudsperson@un.org](mailto:ombudsperson@un.org)

#### **Part B**

Focal Point for De-listing Security Council Subsidiary Organs Branch Room TB-08041B United Nations New York, N.Y. 10017 United States of America Tel. +1 917 367 9448 Fax.+1 212963 1300/3778 Email: [delisting@un.org](mailto:delisting@un.org)

## Second Schedule

Form for disclosure of information: PT001.pdf, available through <https://www.seylli.org/greybook>.