

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, আগস্ট ২৯, ২০১৩

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF FOREIGN AFFAIRS

NOTIFICATION

Date : 18 June 2013

SRO No. 188(Ka)-Law/2013—In exercise of the power conferred by section 2 of the United Nations (Security Council) Act, 1948 (Act No. XIV of 1948) the Government is pleased to make the following amendments in the S.R.O No 398-Law/2012, dated 29 November 2012, relating to Prevention and Suppression of Terrorism and Financing of Terrorism (Implementation of United Nations Security Council Resolutions) Order, 2012, namely:—

Amendments

In the aforesaid Order—

- (1) In the first paragraph of the preamble, for the words “certain terrorists and terrorist organizations” shall be substituted by the words “individuals and entities listed pursuant to the Resolutions”;
- (2) In the fourth paragraph of the preamble, the words “to combat terrorism and financing of terrorism” shall be deleted;

(৭২৯৯)

মূল্য : টাকা ১৬.০০



(3) Paragraph 2 (1) (b) of the Order shall be replaced by the words “‘Resolutions’ means the Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1452 (2002), 1455 (2003), 1540 (2004), 1526 (2004), 1617 (2005), 1718 (2006), 1730 (2006), 1735 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1822 (2008), 1874 (2009), 1904 (2009), 1929 (2010), 1988 (2011), 1989 (2011), 2082 (2012), 2083 (2012) and any successor resolution adopted by the Security Council of the United Nations in the future under Chapter VII of the Charter of the United Nations”;

(4) After paragraph 2 (1) (c) of the Order the following new clause (d), (e) and (f) shall be inserted, namely :—

“(d) ‘Listed individuals and entities’ means the individuals, groups, undertakings and entities who are listed in the Schedule;

(e) ‘Freeze’ means to prohibit the transfer, conversion, disposition or movement of any Fund and other financial assets or economic resources that are owned or controlled by listed individuals or entities on the basis of, and for the duration of the validity of, and action initiated by the United Nations Security Council or in accordance with applicable Security Council Resolutions by the competent authority.

(f) ‘Funds and other financial assets or economic resources’ means—

(i) any type of funds or assets, corporeal or incorporeal, moveable or immovable, tangible or intangible, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets or funds and any interest, dividends or other income on or value accruing from or generated by such funds or assets;

(ii) cash, any other type of financial assets, economic resources, 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, travelers 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 which is located inside or outside the country; and

(iii) those used for the provision of internet hosting or related services, used for the support or the listed individuals and entities”;

(5) Paragraph 4(c) of the Order shall be substituted by the words—

“(c) prohibit any willful provision or collection, directly or indirectly, of funds by any individual or entity in its jurisdiction, with the intention to use such funds or having the knowledge that they shall be used to carry out any terrorist act or for the benefit of listed individuals and entities”;

(6) Paragraph 4(d) of the Order shall be substituted by the words—

“(d) Freeze, seize or attach, without delay, and without issuing any prior notice, the property, funds or other financial assets or economic resources held by, including funds derived or generated from property owned or controlled directly or indirectly by the listed person or entity or by any undertaking owned or controlled by the listed person or entity, or on behalf of a natural person or an entity, if the name of the person or entity is included in the lists. However, any payment in favour of frozen accounts of these individuals and entities shall be allowed;”

(7) Paragraph 4(f) of the Order shall be substituted by the words—

“(f) Prevent the entry into or transit through Bangladesh of the individuals, together with their family members listed in the Schedule, through effective border control and immigration measures, provided that they are not Bangladeshi nationals and this shall not apply where entry or transit is necessary for the fulfillment of a judicial process or the Committee established pursuant to 1267, hereinafter referred to as “the Committee”, determines on a case-by-case basis only that entry or transit is justified;”

(8) Paragraph 4(g) of the Order shall be substituted by the words—

“(g) Prevent any direct or indirect supply, sale or transfer from Bangladesh or by its nationals outside Bangladesh or using Bangladeshi flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical advice, assistance, or training related to military activities to the individuals or entities listed in the Schedule;”

(9) After paragraph 4 (j) of the Order, the following two new clauses— (k) and (l) shall be inserted, namely :—

“(k) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(l)(i) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts; and

(ii) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;”;

(10) Paragraph 7 of the Order shall be substituted by the words—

“7. **Updating or amendment of the Schedule.**—The government shall update or amend the Schedule annexed to this Order as and when the Sanction Lists are amended by the Committee or from time to time, through consultation with the National Committee referred to in paragraph 6 of this Order.”

(11) After Paragraph 7 of the Order the following new paragraphs 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 shall be inserted :—

“8. **Listing procedures.**—(1) If any individual or entity meets the criteria stated in the UN Security Council Resolutions, the National Committee shall submit the name to the respective UNSCR’s Committee for inclusion on the List with as much relevant information as possible on the proposed name, in particular sufficient identifying information so as to allow for the accurate and positive identification and a detailed statement of case.

(2) For individual or entity who meets the criteria stated in the UNSCR 1373, the Provisions of section 17 to 20 of Anti Terrorism Act (ATA), 2009 shall be applicable.

9. **Exemptions.**—(1) The provision of paragraph 4 (d) does not apply to funds and other financial assets or economic resources that have been determined by the National Committee to be—

(a) necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources, after notification by the National Committee to the Committee of the intention to authorize, where appropriate, access to such funds, assets or resources and in the absence of a negative decision by the Committee within 48 hours in case of the individuals and entities under the UNSCR 1988 sanctions list and the UNSCR 1267 sanctions list and five days in case of the individuals and entities listed by the Security Council Committee established pursuant to resolution 1718;

- (b) necessary for extraordinary expenses, provided that such determination has been notified by the National Committee to the Committee and has been approved by the Committee;
- (2) The National Committee can receive requests from listed individuals and entities for exemptions to the measures outlined in paragraph 8 (1) and the National Committee shall transmit such requests to the Committee for a decision and further notify such individuals or entities of the Committee's decision.

10. False positives.—Upon request by any of the listed individuals and entities, the national committee can allow the funds and other financial assets or economic resources of individuals or entities with the same or similar name as listed individuals or entities (i.e. a false positive or mistaken identity) to be unfrozen, provided that the National Committee is confirmed that the individual or entity is not the actual listed individuals or entities.

11. Delisting procedures.—The individuals and entities listed under UNSCR 1267 and UNSCR 1988 sanctions regimes can challenge their listing by submitting delisting petitions to the Office of the Ombudsperson. The URL of the Office of the Ombudsperson is <http://www.un.org/en/sc/ombudsperson/accessinfo.shtml>.

12. Notification of listing and delisting.—If the National Committee receives any notification about an individual or entity's listing in or delisting from the UNSCR 1267 Sanctions List and 1988 Sanctions List, the National committee will notify listed individuals and entities of their designation/listing with the narrative summary of reasons for listing, a description of the effects of designation, procedures for considering delisting requests, and the provisions regarding available exemptions.

13. Gateways for exchanging information.—(1) The Government, under arrangements entered into by the government of Bangladesh with the Office of the Ombudsperson or any other country or other such arrangements, shall share all relevant information including operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups.

(2) The Government can request other countries to take appropriate measures and to provide information of individuals or entities listed in the schedule of Anti Terrorism Act, 2009 following the criteria set out in the UNSCR 1373.

14. Appointment of Focal Points for implementing the UN Security Council Resolutions.—The Government shall appoint following focal point for implementing the UN Security Council Resolutions, namely—

(a) The Focal Point from the Ministry of Foreign Affairs (hereinafter referred to as 'MOFA') shall be the Director General (UN), Ministry of Foreign Affairs;

(b) The Focal Point from the Ministry of Home Affairs (hereinafter referred to as 'MOHA') shall be the Head of Political Wing/Joint Secretary (Political), Ministry of Home Affairs;

(c) The Focal Point from the Ministry of Civil Aviation and Tourism shall be the Deputy Secretary, Ministry of Civil Aviation and Tourism;

(d) The Focal Point from the Ministry of Shipping shall be the Deputy Secretary (Shipping), Ministry of Shipping;

(e) The Focal Point from the Ministry of Commerce shall be the Director (WTO Cell), Ministry of Commerce;

- (f) The Focal Point from the NGO Affairs Bureau shall be the Director General, NGO Affairs Bureau, Prime Minister's Office;
- (g) The Focal Point from the Bank and Financial Institution Division, Ministry of Finance shall be the Deputy Secretary (Regulations and Policy), Bank and Financial Institution Division, Ministry of Finance;
- (h) The Focal Point from the National Board of Revenue (NBR) shall be the First Secretary (Taxes), National Board of Revenue;
- (i) The Focal Point from the Bangladesh Financial Intelligence Unit (hereinafter referred to as 'BFIU') shall be the Operational Head and General Manager of BFIU Bangladesh Bank; and
- (j) The Focal Point from the Legislative and Parliamentary Affairs Division shall be the Deputy Secretary (Printing and publication).

15. **Communication of the Order.**—All the Ministries, Divisions and organizations listed above shall communicate the provision of this Order to all 'Primary Contact Points' of all implementing and law enforcement agencies under their jurisdictions such as, but not limited to Port Authority, Customs Houses, Bangladesh Police, CID, SB, RAB, Border Guard of Bangladesh, Coast Guard, Department of Passport and Immigration, DGFI and NSI.

16. **Communication of the list of individuals and entities.**—Communication mechanism of the list of individuals or entities is as follows—

- (a) The MOFA shall update the list of individuals and entities as and when the Sanction Lists are amended by the concerned UNSCR Committees. On any revision, MOFA shall communicate the updated list to the Focal Points; and

- (b) After getting the list of individuals and entities listed by the respective UNSCR Committee from MOFA or from its website, all the Ministries, Divisions and organizations listed above shall communicate the list to all 'Primary Contact Points' of all implementing and law enforcement agencies under its control for necessary actions.

17. Regarding funds, financial assets or economic resources or related services held in or through Reporting Organization.—

As regards funds, financial assets or economic resources or related services of the individuals and entities held in or through the reporting organizations, the process will as follows—

- (a) The reporting organizations shall maintain and update the listed individuals and entities in electronic form and regularly run a check at the website of United Nations (<http://www.un.org/sc/committees/index.shtm>) on the given parameters to verify whether individuals or entities listed by the respective UNSCR Committee are holding any funds, financial assets or economic resources or related services or any form of relationship with them;

- (b) In case, the particulars of any of their customers match with the particulars of listed individuals and entities, the reporting organization shall immediately stop payment, conduct transactional review and report to the BFIU within the next working day with full particulars of the listed and/or the suspected individuals or entities as well as the funds, financial assets or economic resources or related services held by such customer on their books to the BFIU;

- (c) BFIU will analyze the report and, if necessary, call for additional information/documents or inspect the Reporting Organization and forwarded the case, if it is deemed appropriate to the law enforcement agencies like CID of Bangladesh Police for further action and also keep the Focal Point of MOFA informed about the actions taken;

- (d) If BFIU is fully convinced after proper analysis that the details of the reported customer do not match with the details of individuals or entities listed by the concerned UNSCR Committee or in the schedule of this Order, BFIU shall immediately issue an order to withdraw the stop-payment;
- (e) In case, the match of any of the customers with the particulars of listed individuals or entities is beyond doubt, BFIU shall forward the details to CID of Bangladesh Police and MOFA and also instruct the reporting organization to maintain the stop payment until further instruction is given;
- (f) On receipt of the particulars/documents referred to in paragraph 17 (c) above, CID of Bangladesh Police shall cause a verification so as to ensure that the individuals/entities identified by the reporting organization and forwarded by the BFIU are the listed individuals or entities and the funds, financial assets or economic resources or related services, reported by reporting organizations are held by the listed individuals or entities. This verification shall be completed within a period not exceeding five working days from the date of the receipt of such information;
- (g) If CID finds that the individuals or entities that are identified by the reporting organizations and forwarded by the BFIU are the listed individuals or entities, it shall trace out any property owned by or are held for the benefit of the listed individuals or entities, and immediately freeze/attach the property. CID shall inform the result of the verification to BFIU and/or the particulars of the frozen property to MOHA;
- (h) In case, the results of the verification indicate that the properties are owned by or held for the benefit of the listed individuals or entities, an order to freeze these properties shall be issued by BFIU within one working day after receiving of such verification from CID and conveyed to the concerned reporting organization under intimation to CID of Bangladesh Police. The BFIU shall

also forward a copy thereof to the Focal Point of MOFA, so that any individual or entity may be prohibited from making any funds, financial assets or economic resources or related services available for the benefit of the listed individuals of entities or any other person engaged in or suspected to be engaged in terrorism; and

- (i) The order shall take place without prior notice to the listed individuals or entities.

18. Regarding financial assets or economic resources held outside reporting organizations as the nature of properties is immovable.—

(1) The Focal Point of MOHA shall forward the lists of suspected individuals or entities to the Contact Points of all law enforcement agencies with the request to maintain and update the names of the listed individuals or entities. CID of Bangladesh Police will verify the names of the listed individuals or entities from the records of the office of the Registrar performing the work of registration of immovable properties under their respective jurisdiction.

- (2) In case, it is found that any listed individual or entity is holding financial assets or economic resources of the nature of immovable property under its jurisdictions, the Contact Point shall communicate the complete particulars of such individuals or entities along with complete details of the financial assets or economic resources of the nature of immovable property to the Focal Point of MOHA, within the next working day.

- (3) The Contact Point of the respective law enforcement agency may cause such verification to be conducted to ensure that the particulars sent by the Registrar performing the work of registering immovable properties are indeed those of the listed individuals or entities. This verification shall be completed within a maximum of five working days and should be conveyed within the next working day of the verification, and if it matches with the particulars of the listed individuals or entities the law enforcement authorities shall immediately attach the property according to law and inform the particulars to the Focal Point of MOHA.

- (4) In case, the results of the verification indicate that the particulars match with those of the listed individuals or entities, the Focal Point of MOHA shall issue an attachment order within next working day to the concerned Registrar performing the work of registering immovable properties and convey the particulars to BFIU.
- (5) The order shall take place without prior notice to the listed individuals or entities.
- (6) Further, the Contact Point of law enforcement agencies/BFIU shall monitor the transactions/accounts of the listed individual or entity so as to prohibit any individuals or entities from making any funds, financial assets or economic resources or related services available for the benefit of the individuals or entities engaged in or suspected to be engaged in terrorism. The Contact Point shall bring such matters to the notice of the Focal Point of MOHA.

19. Implementation of requests received from foreign countries under U.N. Security Council Resolution 1373 of 2001.—(1)

To give effect to the requests of foreign countries under the U.N. Security Council Resolution 1373, MOFA shall examine the requests made by the foreign countries and forward it, with their comments to the Focal Point of the concerned Ministries, Division and organization for necessary actions.

- (2) The Focal Point of MOHA shall cause the request to be examined, within five working days, so as to satisfy itself that on the basis of applicable legal principles, the requested designation is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designee is a terrorist, one who finances terrorism or a terrorist organization, and upon his/her satisfaction, shall forward the request to the BFIU and the Contact Points of the relevant law enforcement agencies. The provisions of this Order are applicable for the listed individuals and entities, shall also be applied for the proposed designee.

- (3) Upon receipt of the request from the Focal Point of MOHA, the Contact Points shall follow the procedures as enumerated under paragraph 4 (b) to 4 (j).
- (4) The freezing orders shall take place without prior notice to the listed individuals or entities involved.

20. Procedure for unfreezing of funds, financial assets or economic resources or related services of individuals or entities inadvertently affected by the freezing mechanism upon verification that the person or entity is not a listed individual or entity.—(1) Any individual or entity, if they have evidence to prove that the freezing of funds, financial assets or economic resources or related services, owned or held by them has been inadvertently frozen, they shall move an application giving the requisite evidence, in writing, to the reporting organization or to the Contact Point of the law enforcement agencies.

- (2) The reporting organizations shall inform and forward a copy of that application together with full details of the frozen funds, financial assets or economic resources or related services to the BFIU.
- (3) BFIU shall forward the copy of the application together with full details of the fund, financial assets or economic resources or related resources to the Focal Point of MOHA. The Focal Point of MOHA shall cause such verification as may be required on the basis of the evidence furnished by the individual or entity and if he/she is satisfied, he/she shall pass an order, within 15 working days, for unfreezing the funds, financial assets or economic resources or related services, owned/held by such applicant, under intimation to the concerned reporting Organization and Contact Points. However, if it is not possible for any reason to pass an Order unfreezing the assets within 15 working days, the Focal Point of MOHA shall inform the applicant about the same.

(4) If the Focal Point of MOHA is not convinced with the supporting documents/information, he/she will forward it to the National Committee on the Implementation of the UNSCR Combating Terrorism and Financing of Terrorism. If the National Committee is unable to decide about the application and the applicant wishes to continue his/her effort, the National Committee shall extend necessary support to settle the application through the respective UNSCR Committees.

21. Regarding prevention of entry into or transit through Bangladesh.—(1) As regards prevention of entry into or transit through Bangladesh of the listed individuals, the Focal Point of MOHA, shall forward the lists to the Department of Immigration and Passport, Immigration Police and security agencies with a request to prevent them entry into or transit through Bangladesh. The order shall take place without prior notice to the listed individuals or entities.

(2) The immigration authorities shall ensure strict compliance of the instruction of this Order and also communicate the details of entry or transit through Bangladesh of the listed individuals as prevented by them to the Focal Point of MOHA within the next working day.

(3) The Focal Point of MOFA shall forward the list to its Mission abroad. The Bangladesh Mission abroad shall not issue any kind of visa to the listed individuals to prevent their entry into Bangladesh.

22. Procedure for communication of compliance of action taken under this Order.—The Focal Point of MOHA and BFIU shall furnish the details of funds, financial assets or economic resources or related services of listed individuals or entities frozen by an order, and details of the individuals whose entry into Bangladesh or transit through Bangladesh was prevented, respectively, to the Focal Point of MOFA for onward communication to the United Nations.

23. **Acts done in good faith.**—No suit or prosecution or administrative measures or any other legal proceedings shall lie against any person or entity for action taken in good faith when implementing this order.
24. **Strict Compliance.**—All concerned is instructed to ensure strict compliance of this order.”

By order of the President

MD. SHAHIDUL HAQUE
Foreign Secretary in-charge.