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THE OFFICIAL GAZETTE 19TH JULY, 2023
LEGAL SUPPLEMENT — B

GUYANA No. 10 of 2023

REGULATIONS

Made Under

THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT

(Cap. 10:11)

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 114 OF THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT, I MAKE THE FOLLOWING REGULATIONS: -

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Amendment of regulation 4 of the Principal Regulations.
3. Amendment of regulation 5 of the Principal Regulations.
4. Amendment of regulation 10 of the Principal Regulations.
5. Amendment of regulation 11 of the Principal Regulations.
6. Insertion of new regulations 12 and 13 into the Principal Regulations.

Citation.

1. These Regulations, which amend the Anti-Money Laundering and Countering the Financing of Terrorism Regulations 2015, may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) (No. 2) Regulations 2023.

No. 4 of 2015 (Subsidiary Legislation)

Amendment of regulation 4 of the Principal Regulations.

2. Regulation 4 of the Principal Regulations is amended by inserting immediately after subregulation (3), the following subregulations-

"(4) All persons and entities within Guyana shall freeze, without delay and without prior notice, the property of designated persons and entities being held by them upon discovery of holding or dealing with such property.

(5) In this regulation-

"property" means property-

(a) that is owned or controlled by the designated person or entity;

(b) that is wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities;

(c) derived or generated from property owned or controlled directly or indirectly by designated persons or entities, and

(d) of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

(6) No person or entity shall make any funds or other assets, economic resources, or financial or other related services, available, directly or indirectly, wholly or jointly, for the benefit of-

(a) designated persons and entities;

(b) entities owned or controlled, directly or indirectly, by designated persons or entities; or

(c) 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 Resolution.

(7) A freezing order granted by the Court in relation to any United Nations Security Council Resolution or decision by any United Nations Security Council Committee shall not prejudice the rights of any third party acting in good faith.

(8) Where the court makes an order for the administration of frozen funds, the person charged with the administration of the funds is not liable for any loss or damage to the funds or for the cost of proceedings taken to establish a claim to the funds or to an interest in the funds unless the court in which the claim is made is of the opinion that the person has been guilty of negligence in respect of the taking of custody and control of the funds.".

Amendment of regulation 5 of the Principal Regulations.

3. Regulation 5 of the Principal Regulations is amended as follows-

(a) in subregulation (1), by inserting immediately after the word "shall" the words ", without delay, freeze all the funds held by it in relation to a specified person or entity and shall"; and

(b) by inserting immediately after subregulation (3), the following subregulation-

"(4) Any person or entity that encounters any listed, specified or designated person or entity shall report to the Director-

(a) property frozen;

(b) actions taken; or

(c) attempted or aborted transactions,

in relation to any action in these Regulations taken against a listed, specified or designated person.".

Amendment of regulation 10 of the Principal Regulations.

4. Regulation 10 of the Principal Regulations is amended as follows-

(a) in subregulations (1), (3), (5) and (6), by substituting for the words "Minister responsible for Legal Affairs" the word "Court"; and

(b) in subregulation (6), by substituting for the word "his" the word "its".

Amendment of regulation 11 of the Principal Regulations.

5. Regulation 11(c) of the Principal Regulations is amended as follows-

(a) by substituting for the full-stop a semi colon; and

(b) by inserting immediately after the words "Resolution 1373 (2001);" as so amended, the words "and provide as much as possible, identifying information, and specific information supporting the designation.".

Insertion of new regulations 12 and 13 into the Principal Regulations.

6. The Principal Regulations are amended by inserting immediately after regulation 11, the following new regulations-

"Evidentiary standard of proof.

12. (1) When making a proposal under Regulation 11 (a) and (b), the Director shall apply an evidentiary standard of proof of-

(a) reasonable grounds;

(b) reasonable basis; or

(c) reasonable suspicion,

when deciding whether or not to make a proposal for designation.

(2) The Director shall follow the procedures and standard forms for listing, as adopted by the 1267/1989 Committee or 1988 Committee.

(3) When making proposals under regulation 11 (a) and (b), or making requests under regulation 11 (c), the Director shall-

(a) provide as much relevant information as possible on the proposed name, including-

(i) sufficient identifying information to allow for the accurate and positive identification of individuals, groups, undertakings, and entities and

(ii) sufficient information to allow domestic and international law enforcement agencies and bodies to issue special notices;

(b) provide a statement of case, which-

(i) includes reasons for listing in as much detail as possible; and

(ii) is releasable, upon request, except for the parts a Member State of the United Nations identifies as being

confidential to the 1267/1989 Committee or 1988 Committee; and

(c) indicate, when making proposals for designation to the 1267/1989 Committee, whether Guyana's status as a designating state should be made known.

Removal of individual or entity.

13. (1) Where an individual or entity has been placed on the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List on the basis of a request by the Director, and the Director is satisfied that an individual or entity listed is no longer meets criteria for listing, the Director may petition-

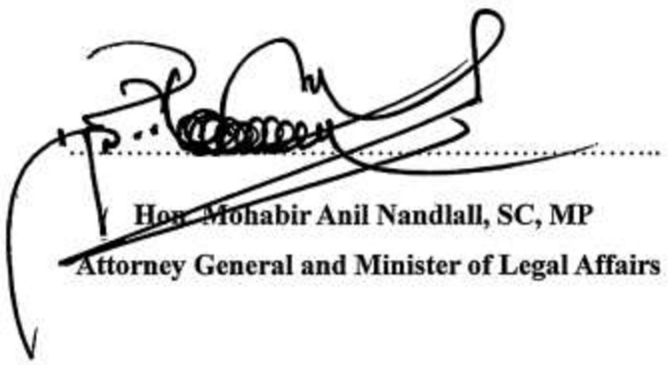
(a) the 1267, 1987 and 2253 Committee for removal of the individual or entity from the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List; or

(b) the 1988 Committee for removal of the individual or entity from the 1988 List.

(2) Where an individual or entity has been placed on the Resolutions 1267 (1999), 1989 (2011) and 2253 (2915) List or the 1988 List, the Director shall, as far as practicable, inform the individual or entity of the availability of the United Nations Office of the Ombudsperson or focal point for De-Listing, as appropriate, for the purposes of petitioning the removal

from the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, as the case may be.".

Made this 19th day of July, 2023



Hon. Mohabir Anil Nandlall, SC, MP
Attorney General and Minister of Legal Affairs