

Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism

SOR/2001-360

UNITED NATIONS ACT

Whereas the Security Council of the United Nations, acting under section 41 of the Charter of the United Nations, adopted Security Council Resolution 1373 (2001) on September 28, 2001;

And whereas it appears to the Governor in Council to be necessary to make regulations for enabling the measures set out in that resolution to be effectively applied;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Foreign Affairs, pursuant to sections 2 and 3 of the *United Nations Act*, hereby makes the annexed *United Nations Suppression of Terrorism Regulations*.

Registration October 2, 2001

REGULATIONS IMPLEMENTING THE UNITED NATIONS RESOLUTIONS ON THE SUPPRESSION OF TERRORISM

INTERPRETATION

1. The definitions in this section apply in these Regulations.

"Canadian" means an individual who is a citizen within the meaning of the *Citizenship Act*, or a body corporate incorporated or continued by or under the laws of Canada or a province. (*Canadien*)

"entity" means a body corporate, trust, partnership or fund or an unincorporated association or organization. (*entité*)

"judge" means the Chief Justice of the Federal Court or a judge of that Court designated by the Chief Justice. (*juge*)

"listed person" means a person whose name is listed in the schedule in accordance with section 2, with the exception of the following:

(a) the entities referred to in the *Regulations Establishing a List of Entities*; and

(b) Usama bin Laden or his associates, or any person associated with the Taliban within the meaning of section 1 of the *United Nations Al-Qaida and Taliban Regulations*. (*personne inscrite*)

"Minister" means the Minister of Foreign Affairs. (*ministre*)

"person" means an individual or an entity. (*personne*)

"property" means real and personal property of every description and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods, and includes any funds, financial assets or economic resources. (*bien*)

SOR/2001-441, s. 1; SOR/2002-210, s. 1; SOR/2002-325, s. 1; SOR/2006-165, s. 2.

LIST

2. (1) A person whose name is listed in the schedule is a person who the Governor in Council, on the recommendation of the Minister, is satisfied that there are reasonable grounds to believe

(a) has carried out, attempted to carry out, participated in or facilitated the carrying out of a terrorist activity;

(b) is controlled directly or indirectly by any person conducting any of the activities set out in paragraph (a); or

(c) is acting on behalf of, or at the direction of, or in association with any person conducting any of the activities set out in paragraph (a).

(2) and (3) [Repealed, SOR/2006-165, s. 3]

SOR/2002-210, s. 5; SOR/2006-165, s. 3.

2.1 (1) Any listed person may apply in writing to the Minister to request to be removed from the schedule.

(2) On receipt of a written application, the Minister shall decide whether there are reasonable grounds to recommend to the Governor in Council that the applicant be removed from the schedule.

(3) If the Minister does not make a decision on the application within 60 days after receipt of the application, the Minister is deemed to have decided to recommend that the applicant remain a listed person.

(4) The Minister shall give notice without delay to the applicant of any decision taken or deemed to have been taken respecting the application.

(5) A listed person may not make another application under subsection (1) unless there has been a material change in circumstances since the time the person made their last application.

SOR/2006-165, s. 4.

JUDICIAL REVIEW

2.2 (1) Within 60 days after receipt of the notice referred to in subsection 2.1(4), the applicant may apply to a judge for judicial review of the decision.

(2) When an application is made, the judge shall without delay

(a) examine, in private, any security or criminal intelligence reports considered in listing the applicant and hear any other evidence or information that may be presented by or on behalf of the Minister and may, at the request of the Minister, hear all or part of that evidence or information in the absence of the applicant and any counsel representing the applicant, if the judge is of the opinion that the disclosure of the information would injure national security or endanger the safety of any person;

(b) provide the applicant with a statement summarizing the information available to the judge so as to enable the applicant to be reasonably informed of the reasons for the decision, without disclosing any information whose disclosure would, in the judge's opinion, injure national security or endanger the safety of any person;

(c) provide the applicant with a reasonable opportunity to be heard; and

(d) determine whether the decision is reasonable on the basis of the information available to the judge and, if found not to be reasonable, order that the applicant no longer be a listed person.

(3) The judge may receive into evidence anything that, in the opinion of the judge, is reliable and appropriate, even if it would not otherwise be admissible under Canadian law, and may base his or her decision on that evidence.

(4) The Minister shall cause to be published, without delay, in the *Canada Gazette* notice of a final order of a court that the applicant no longer be a listed person.

SOR/2006-165, s. 4.

2.3 (1) For the purposes of subsection 2.2(2), in private and in the absence of the applicant or any counsel representing it,

(a) the Minister may make an application to the judge for the admission of information obtained in confidence from a government, an institution or an agency of a foreign state, from an international organization of states or from an institution or an agency of an international organization of states; and

(b) the judge shall examine the information and provide counsel representing the Minister with a reasonable opportunity to be heard as to whether the information is relevant but should not be disclosed to the applicant or any counsel representing it because the disclosure would injure national security or endanger the safety of any person.

(2) The information shall be returned to counsel representing the Minister and shall not be considered by the judge in making the determination under paragraph 2.2(2)(d) if

(a) the judge determines that the information is not relevant;

(b) the judge determines that the information is relevant but should be summarized in the statement to be provided under paragraph 2.2(2)(b); or

(c) the Minister withdraws the application.

(3) If the judge determines that the information is relevant but that its disclosure would injure national security or endanger the safety of persons, the information shall not be disclosed in the statement mentioned in paragraph 2.2(2)(b), but the judge may base his or her determination under paragraph 2.2(2)(d) on it.

SOR/2006-165, s. 4.

PROVIDING OR COLLECTING FUNDS

3. No person in Canada and no Canadian outside Canada shall knowingly provide or collect by any means, directly or indirectly, funds with the intention that the funds be used, or in the knowledge that the funds are to be used, by a listed person.

SOR/2006-165, s. 5(F).

FREEZING PROPERTY

4. No person in Canada and no Canadian outside Canada shall knowingly

(a) deal directly or indirectly in any property of a listed person, including funds derived or generated from property owned or controlled directly or indirectly by that person;

(b) enter into or facilitate, directly or indirectly, any transaction related to a dealing referred to in paragraph (a);

(c) provide any financial or other related service in respect of the property referred to in paragraph (a); or

(d) make any property or any financial or other related service available, directly or indirectly, for the benefit of a listed person.

SOR/2006-165, s. 6(F).

5. All secured and unsecured rights and interests held by a person, other than a listed person or an officer, director, agent or other representative of a listed person, in the frozen property are entitled to the same ranking as they would have been entitled to had the property not been frozen.

SOR/2006-165, s. 7.

CAUSING, ASSISTING OR PROMOTING

6. No person in Canada and no Canadian outside Canada shall knowingly do anything that causes, assists or promotes, or is intended to cause, assist or promote, any activity prohibited by section 3 or 4, unless the person has a certificate issued by the Minister under section 11.

DUTY TO DETERMINE

7. (1) Every entity referred to in paragraphs 83.11(1)(a) to (g) of the *Criminal Code* must determine on a continuing basis if it is in possession or control of property owned or controlled by or on behalf of a listed person.

(2) Every entity referred to in subsection (1) must report within the applicable period determined under subsection 83.11(2) of the *Criminal Code* to the principal agency or body that supervises or regulates it under federal or provincial law either

(a) that it is not in possession or control of any property referred to in subsection (1); or

(b) that it is in possession or control of such property, in which case it must also report the number of persons, contracts or accounts involved and the total value of the property.

(3) Subsection (2) does not apply in respect of any entity or class of entities that is excluded by regulations made under subsection 83.11(4) of the *Criminal Code* from the requirement to make a report under subsection 83.11(2) of that Act.

(4) No person contravenes subsection (2) for making a report in good faith under that subsection.

SOR/2001-441, s. 2; SOR/2006-165, s. 8.

DISCLOSURE

8. (1) Every person in Canada and every Canadian outside Canada shall disclose forthwith to the Commissioner of the Royal Canadian Mounted Police and to the Director of the Canadian Security Intelligence Service

(a) the existence of property in their possession or control that they have reason to believe is owned or controlled by or on behalf of a listed person; and

(b) information about a transaction or proposed transaction in respect of property referred to in paragraph (a).

(2) No person contravenes subsection (1) for disclosure made in good faith under that subsection.

SOR/2006-165, s. 9.

OFFENCES AND PUNISHMENT

9. No officer, director, agent or other representative of a corporation shall knowingly do anything that causes, assists or promotes, or is intended to cause, assist or promote, the omission of any act or thing required to be done under sections 7 and 8.

SOR/2006-165, s. 10.

10. (1) A person claiming not to be a listed person may apply to the Minister for a certificate stating that the person is not a listed person.

(2) The Minister shall, within 15 days after receiving the application, issue a certificate if it is established that the applicant is not a listed person.

SOR/2006-165, s. 10.

10.1 (1) A person whose property has been affected by section 4 may apply to the Minister for a certificate to exempt

property from the application of that section if necessary for basic or extraordinary expenses.

(2) The Minister shall issue a certificate if the necessity of that property is established in conformity with Security Council Resolution 1452 (2002) of December 20, 2002,

(a) in the case of property necessary for basic expenses, within 15 days after receiving the application, if the Security Council Committee established under Resolution 1267 (1999) of October 15, 1999 did not refuse the release of the property; and

(b) in the case of property necessary for extraordinary expenses, within 30 days after receiving the application, if the release of the property was approved by the Security Council Committee.

SOR/2006-165, s. 10.

CERTIFICATE

11. No person contravenes these Regulations by doing an act or thing prohibited by sections 3 to 6 if, before the person does that act or thing, the Minister issues a certificate to that person stating that

(a) the Security Council of the United Nations Resolution 1373 adopted on September 28, 2001 does not intend that the act or thing be prohibited; or

(b) the act or thing has been approved by the Security Council of the United Nations or by the Committee of the Security Council established by the Resolution referred to in paragraph (a).

(c) [Repealed, SOR/2006-165, s. 11]

SOR/2001-441, s. 3; SOR/2006-165, s. 11.

COMING INTO FORCE

12. These Regulations come into force on the day on which they are registered.

SCHEDULE

(Sections 1 to 2.2)

1. Khalid Shaikh Mohammed
2. Ahmed Al-Mughassil
3. Ali Al-Houri
4. Ibrahim Al-Yacoub
5. Abdel Karim Al-Nasser
6. Imad Mugniyah
7. Hassan Izz-Al-Din
8. Ali Atwa
9. Real IRA
10. Revolutionary Nuclei (formerly ELA)
11. Revolutionary Organization 17 November
12. Revolutionary People's Liberation Army/Front (DHKP/C)
13. Holy Land Foundation for Relief and Development
14. Beit el-Mal Holdings
15. Al Aqsa Islamic Bank
16. Continuity Irish Republican Army
17. Grupos de Resistencia Antifascista Primero de Octubre (GRAPO) (also known among other names as First of October Antifascist Resistance Groups)
18. Loyalist Volunteer Force (LVF)
19. Orange Volunteers
20. Red Hand Defenders (RHD)
21. Ulster Defence Association (UDA) (also known among other names as Ulster Freedom Fighters (UFF))
22. New People's Army/Communist Party of the Philippines (also known among other names as the Communist Party of the Philippines, CPP, New People's Army, NPA, NPA/ CPP)
23. Jose Maria Sison (also known among other names as Armando Liwinag), the Netherlands, born February 8, 1938, Ilocos Sur, Northern Luzon, Philippines

24. Ahmed Ismail Yassin
25. Imad Khalil Al-Alami
26. Usama Hamdan
27. Khalid Mishaal
28. Musa Abu Marzouk
29. Abdel Azia Rantisi
30. Comité de bienfaisance et de secours aux Palestiniens (CBSP)
31. Association de secours palestinien (ASP)
32. Palestinian Relief and Development Fund (Interpal)
33. Sanabil Association for Relief and Development
34. Al-Aqsa Foundation
35. Assad Ahmad Barakat
36. Elehssan Society

SOR/2001-440, s. 1; SOR/2001-441, s. 4; SOR/2001-491, s. 1; SOR/2001-492, s. 1; SOR/2001-526, s. 1; SOR/2002-20, s. 1; SOR/2002-33, s. 1; SOR/2002-42, s. 1; SOR/2002-116, s. 1; SOR/2002-141, s. 1; SOR/2002-161, s. 1; SOR/2002-210, ss. 2, 3; SOR/2002-324, s. 1. SOR/2002-325, s. 2; SOR/2002-327, s. 1; SOR/2002-455, s. 1; SOR/2003-311, s. 1; SOR/2004-185, s. 1; SOR/2005-302, s. 1; SOR/2006-165, s. 12.

SCHEDULE 2

[Repealed, SOR/2002-325, s. 3]

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