

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

শনিবার, নভেম্বর ৯, ২০১৩

Government of the People's Republic of Bangladesh
Ministry of Home Affairs

NOTIFICATION

Date: 13 October, 2013

S.R.O No. 325-Law/2013—In exercise of the power conferred by section 43 of the Anti Terrorism Act, 2009 (Act No. XVI of 2009) the Government is pleased to make the following Rules, namely—

Part-I

Preliminary

1. **Short title, extent and commencement.**—(1) These rules may be called as the Anti Terrorism Rules, 2013.

(2) It extends to the whole of Bangladesh and it applies to all persons on ships and aircraft registered in Bangladesh, wherever they may be.

(3) It shall come into force immediately.

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context—

(a) 'Act' means the Anti Terrorism Act, 2009 (Act No. XVI of 2009);

(৯৫৯৭)
মূল্য : টাকা ৩০.০০

-
- (b) **‘Bangladesh Financial Intelligence Unit’** means the Bangladesh Financial Intelligence Unit (hereinafter referred to as BFIU) as defined in section 2(25) of the Act;
- (c) **‘False positive’** means a situation whereby a suspension or freeze action is taken on the basis of available information but upon further inquiry and receipt of additional clarifying information, such suspension or freeze action is determined not to be the correct course of action;
- (d) **‘Freeze’** means to prohibit the transfer, conversion, disposition or movement of any fund or other financial assets or economic resources that are owned or controlled by any individuals or entities;
- (e) **‘Listed individuals and entities’** means the individuals, groups and entities who are enlisted under United Nations Security Council Resolutions;
- (f) **‘National Committee’** means the National Committee on the Implementation of the United Nations Security Council Resolutions to Combat Terrorism and Financing of Terrorism formed by the Government under S.R.O No. 398-Law/2012 dated November 29, 2012;
- (g) **‘Resolutions’** means the United Nations Security Council 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 resolutions to be adopted by the Security Council of the United Nations in the future, under Chapter VII of the Charter of the United Nations;
- (h) **‘UNSCR Committee’** means the respective sanction committee of the United Nations Security Council Resolutions;
- (i) **‘1267 Committee’** means United Nations Security Council committee pursuant to the United Nations Security Council Resolutions (hereinafter referred to as ‘UNSCR’) No.1267 of 1999 and 1989 of 2011; and
- (j) **‘1988 Committee’** means United Nations Security Council committee pursuant to the United Nations Security Council Resolutions No. 1988 of 2011.

Part-II

Freezing of account or suspension of transaction by BFIU

3. Freezing of account or suspension of transaction etc.—In exercise of power pursuant to section 15 (1) (b) of the Act relating to suspension of transaction and freezing of an account as maintained by a reporting agency, the BFIU shall follow the following procedure, namely—

(a) Suspension or freezing order shall contain as much detail as possible about the account or transaction and customer;

(b) The BFIU may suspend debit, credit or both transaction or any transaction of an account;

(c) Every suspension or freeze order shall continue for a period of 30 (thirty) days only and the BFIU may issue additional 6(six) months orders on same ground against the same account or transaction as it deems fit and proper;

(d) The BFIU may issue different suspension or freeze order on different ground against the same account or transaction. Any gap between two suspension or freeze order of the BFIU shall not be an impediment for the applicability of the order;

(e) The reporting agency shall consult with the BFIU before any transaction in the account that was under suspension or freeze order to confirm about the expiration of suspension or freeze order or further instruction from the BFIU;

(f) Suspension order shall mean that no debit will be allowed except maintenance fees and excise duty deducted from that account, if not mentioned otherwise. Credit may be allowed with proper due diligence if it is not mentioned otherwise in the suspension order;

(g) During the continuance of the freeze order no debit or credit shall be allowed in the account without prior written instruction from the BFIU. Reporting agency shall after receiving the freeze order, immediately inform the BFIU as to the balance and linked accounts of the account already under freeze order;

(h) In case of false positive, the BFIU shall have the authority to withdraw the suspension or freeze order, if the order was issued on its own motion after reviewing the application and supporting documents submitted by the aggrieved person or entity;

(i) the BFIU shall consult with requesting Government agency before withdrawal of a suspension or freeze order based on a false positive, where the order was issued on the basis of a request made by other Government agency;

(j) the first suspension or freeze order and withdrawal of suspension or freeze order shall be approved by the head of the BFIU, where the order is undertaken in its own motion; and

(k) in absence of head of the BFIU, suspension or freeze order shall be approved by the Deputy head of the BFIU, provided that the matter shall be presented before the head of the BFIU immediately on his availability in the office.

4. Unfreezing.—(1) Upon request made by any person or entity, the BFIU may allow to unfreeze or withdraw the funds and other financial assets or economic resources of individual or entity with the same or similar name as listed or suspected individual or entity (*i.e.* a false positive), provided that the BFIU determines that the individual or entity is not the actual listed or suspected individual or entity.

(2) For false positive, burden of proof shall lie upon the person or entity concerned that they are not directly or indirectly involved in the commission of any criminal offence as alleged.

(3) To protect the right of a bonafide third party and to confirm the identity as to false positive, the BFIU shall have the authority to seek information or documents from the person or entity concerned, as may be required.

(4) To protect the right of a bonafide third party and to confirm the identity as to false positive, Criminal Investigation Department (hereinafter referred to as CID) of Bangladesh Police or other law enforcing agency shall provide information or documents upon request of the BFIU.

5. Penalties imposed by the BFIU.—(1) Penalties imposed by the BFIU under section 15(8) of the Act for non-compliance of the directions issued by Bangladesh Bank or for providing any wrong or false information or statement, shall be realized from the reporting agency or from the person or employee concerned, or from both who were involved in doing so.

(2) Before imposing fine or penalties under section 15(8) of the Act, the BFIU shall call for an explanation to the reporting agency or the person involved as to the non-compliance of the directions of Bangladesh Bank or for providing any wrong or false information or statement.

(3) Fine realized under section 15(8) of the Act shall be deposited in the account of the BFIU maintained in Bangladesh Bank. Such realized amount may be utilized for the purpose of combating terrorist financing or prevention of money laundering and related offences.

(4) Any person or employee of a reporting agency or the reporting agency itself aggrieved by an order made under section 15(8) of the Act, may apply against such an order of the BFIU for reconsideration of the order only for a single time. In considering the application, the BFIU shall take reasonable measures to ascertain as to the bonafide statement of the applicant. The BFIU in exercising due diligence shall dispose of the application holding proper analysis or inspection, in appropriate cases, and may be communicated to the applicant in written form.

(5) While suspending the registration or license of a reporting agency by the BFIU with a view to stop operation of the said agency or any of its branch, service center, booth or agent within Bangladesh, the BFIU shall give a 15 (fifteen) days prior notice mentioning the reason for stopping operation of the agency.

(6) Where a reporting agency not registered or licensed under Bangladesh Bank, fails to comply with the directions issued by Bangladesh Bank or knowingly provides any wrong or false information or statement, the BFIU shall inform in the form of a summary report about the matter to the registering or licensing authority of such reporting agency to take appropriate action against it.

(7) Registering or licensing authority shall take appropriate measure in pursuance of a request made by the BFIU and inform the BFIU about the action taken, within 30 (thirty) days from the date of receiving the request from the BFIU.

6. Access to Bank Information.—(1) In absence of any order passed by a competent court or special tribunal constituted under the Act, the investigating officer of a concerned law enforcing agency shall have no right to access into the related document or file of any bank or financial institution for the purpose of investigating financing of terrorist activities, without prior approval of the BFIU.

(2) At the time of giving approval of any investigating agency to allow access to the information or documents maintained by a bank or financial institution, the BFIU may inform the matter to the concerned bank or financial institution in appropriate cases.

(3) In order to maintain co-ordinate relationship, the investigating officer of the law enforcing agency shall inform the BFIU as to the access to the related document or file of any bank or financial institution following an order passed by a competent court or a special tribunal for the purpose of investigating financing of terrorist activities or related offences.

Part-III

Proscription and enlistment

7. Domestic proscription and enlistment.—(1) Proscription of entity and enlistment of person in domestic level and review of proscription or enlistment order shall be done by a committee, to be known as ‘Proscription and Enlistment Committee’ headed by the secretary of the Ministry of Home Affairs (hereinafter referred to as MOHA), and head of the Political Wing and Head of the Law Wing of the MOHA shall respectively be the members of that committee.

(2) While proscription and enlistment, the Proscription and Enlistment Committee shall decide on the basis of reasonable ground that the proposed person or entity meets the criteria set out in section 17 of the Act.

(3) The Proscription and Enlistment Committee shall take all reasonable efforts as soon as possible, informing designated individual and entities, as to their proscription and enlistment which among others shall contain:

- (a) the designation and its implications, in order to prevent any unintentional breaches on the part of themselves or related third parties;
- (b) the review procedure and information on the de-listing process, including a contact point within the Government to address any questions regarding the process;
- (c) publicly-releasable information concerning the reasons for designation; and
- (d) procedures to allow approved access to funds or other assets for basic and extraordinary expenses as soon as possible.

(4) After publication of schedule-2 and schedule-3 of the Act, the Proscription and Enlistment Committee shall forward the schedule to Bangladesh Police and the BFIU for taking appropriate action in accordance with the provision of section 20 of the Act.

(5) The proscribed entity shall submit its income and expenditure statement as much detail as possible, to the Proscription and Enlistment Committee. Where the proscribed entity does not submit its income and expenditure statement, the Proscription and Enlistment Committee shall refer the matter to the CID of Bangladesh Police for taking appropriate legal action.

(6) Where the Proscription and Enlistment Committee believes on reasonable ground after analyzing the income and expenditure statement of the enlisted person or proscribed entity that the stated income or expenditure is the proceeds of crime under the Act, the Proscription and Enlistment Committee shall refer the matter to the CID of Bangladesh Police for taking appropriate legal action.

8. Requesting other country to take reasonable measures.—(1) Where the proscription or enlistment is done under the authority of UNSCR 1373 and the Proscription and Enlistment Committee finds reasonable ground to believe that proscribed entity or enlisted person is functioning or is involved in any foreign country, the Proscription and Enlistment Committee shall forthwith request the matter to the appropriate authority of the foreign country concerned, with prior information to the National Committee, complying with the procedure as laid down in the UNSCR 1373.

(2) While requesting another country to give effect to the actions initiated under the freezing mechanisms that have been implemented pursuant to UNSCR 1373 of 2001, the Proscription and Enlistment Committee shall provide as much detail as possible on the proposed name, in particular, sufficient identifying information to allow for the accurate and positive identification of persons or entities; and specific information supporting a determination that the person or entity meets the relevant criteria for designation.

9. Review of proscription or enlistment order.—(1) The person or entity, aggrieved by the proscription or enlistment order, may apply, in writing, for review of the order with full details of rationale and supporting documents before the Proscription and Enlistment Committee.

(2) After receiving a review application the Proscription and Enlistment Committee pursuant to rule-7(1) shall take necessary measure to dispose of the application considering the merit within 30(thirty) days and inform the decision to the applicant.

(3) The aggrieved person or entity may prefer an appeal before the High Court Division of the Supreme Court against the order made under sub-rule (2), within 30 (thirty) days.

10. Proposing a name to the 1267 Committee of the United Nations Security Council.—(1) Notwithstanding anything contained in any other rules or order for the time being in force, the National Committee may propose to the 1267 Committee of the United Nations Security Council, for designation of a person or entity that meets the specific criteria for designation as set out in UNSCR 1989 of 2011 and related resolutions, if the National Committee is satisfied that there are reasonable cause to believe that there are sufficient evidence in support of such designation.

(2) While proposing a name to the 1267 Committee for inclusion, pursuant to resolutions No. 1267 of 1999 and its successor resolutions, the National Committee shall—

(a) Follow the procedures and standard forms for listing, as adopted by the 1267 Committee of the United Nations Security Council;

(b) Provide as much relevant information as possible on the proposed name, in particular, sufficient identifying information to allow for the accurate and positive identification of individuals, groups, undertakings, and entities, and to the extent possible, the information required by Interpol to issue a Special Notice; and

(c) Provide a statement of case, which contains as much detail as possible on the basis for the listing, including specific information supporting a determination that the person or entity meets the relevant criteria for designation, the nature of the information; supporting information or documents that can be provided; and details of any connection between the proposed designee and any currently designated person or entity.

11. Proposing a name to the 1988 Committee of the United Nations Security Council.—Notwithstanding anything contained in any other rules or order for the time being in force, the National Committee may propose to the 1988 Committee of the United Nations Security Council, for designation of a person or entity that meets the specific criteria for designation as set out in UNSCR 1988 of 2011 and related Resolutions, if the National Committee is satisfied that there are reasonable cause to believe that there are sufficient evidence in support of such designation. While proposing a name for inclusion the National Committee shall follow the procedure for listing as adopted by the 1988 committee and the provisions of rule 10 (2) shall be applied.

Part-IV

Implementation of the provisions United Nations Security Council Resolutions

12. Appointment of focal points for implementing the United Nations Security Council Resolutions.—In exercising the power of section 20A(k) of the Act, the Government shall appoint the following focal points for implementing the United Nations 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 or 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;
- (d) The Focal Point from the NGO Affairs Bureau shall be the Director General, NGO Affairs Bureau, Prime Minister's Office;
- (e) 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;
- (f) The Focal Point from the National Board of Revenue (hereinafter referred to as NBR) shall be the First Secretary, Customs Policy and Budget, National Board of Revenue;
- (g) The Focal Point from the Legislative and Parliamentary Affairs Division shall be the Deputy Secretary (Printing and publication); and

(h) The Focal Point from the Bangladesh Financial Intelligence Unit (BFIU) shall be the Operational Head and General Manager of BFIU.*

13. Fixing of Primary Contact Point.—(1) All the Ministries, Divisions and Organizations, as mentioned in rule-12 after appointing focal points shall fix a primary contact point in their respective implementing agency or law enforcing agency within the ambit of their jurisdictions, within 30 days after issuance of these Rules and inform the matter in details to the focal point of MOFA with a view to maintain co-ordinate relationship.

(2) The Ministry, Division and Organization functioning as focal point as mentioned in rule-12 shall have the authority to change the primary contact point in consultation with the respective implementing or law enforcing agency.

(3) Focal points shall maintain a list and update means of communication with all primary contact point under their jurisdictions.

14. Communication of the Rules.—All the Ministries, Divisions and Organizations functioning as focal point as mentioned in rule-12, shall communicate and make aware as to the provisions of these Rules, to all Primary Contact Points of all implementing and law enforcing agencies under their jurisdictions such as, but not limited to Port Authority, Customs Houses, Bangladesh Police, Criminal Investigation Department (hereinafter referred to as CID) of Bangladesh Police, Special Branch (hereinafter referred to as SB) of Bangladesh Police, Rapid Action Battalion (hereinafter referred to as RAB), Border Guard of Bangladesh, Coast Guard, Department of Immigration and Passport, Director General of Forces Intelligence (hereinafter referred to as DGFI), National Security Intelligence (hereinafter referred to as NSI) and reporting agencies.

15. Circulation of the list of individuals and entities.—(1) Circulations mechanism of the list of individuals or entities shall be as follows—

(a) The Focal Point of MOFA shall update the list of individuals and entities as and when the Sanction Lists are amended by the concerned UNSCR Committees. In case of any revision, MOFA shall make available the updated list to all Focal Points;

(b) The Focal Point of MOHA shall update the list of individuals and entities as enlisted in the schedule of the Act. In case of any revision in the schedule of the Act, MOHA shall make available the updated schedule to all Focal Points;

(c) After receiving the list of individuals and entities from MOFA, as enlisted by the respective UNSCR Committee, or the list of individual entities as enlisted or proscribed under the Act, all the Ministries, Divisions and Organizations functioning as focal point as mentioned in rule-12, shall make available such list to all Primary Contact Points of all implementing and law enforcing agencies under their jurisdictions for necessary actions.

(2) All focal points shall examine the website of United Nations sanction committee for having updated list.

16. Regarding funds, financial assets or economic resources or related services held in or through reporting agencies.—As regards funds, financial assets or economic resources or related services of the individuals and entities held in or through the reporting agencies, the process shall be as follows—

(a) The reporting agencies 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>) for updated list. Reporting agency shall run regular check on the given parameters, including transactional review, 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 having any form of relationship with them;

(b) Reporting agency shall run a check on the given parameters, including transactional review, to verify whether individuals or entities listed or scheduled under the Act, individuals or entities owned or controlled directly or indirectly by such persons or entities, as well as persons and entities acting on behalf of, or at the direction of, individuals or entities listed or scheduled under the Act are holding any funds, financial assets or economic resources or related services or having any form of relationship with them;

(c) In case of a match as set out in clause (a) and (b), the reporting agency shall immediately stop payment or transaction of funds, financial assets or economic resources and report to the BFIU within the next working day with full particulars of the listed and/or the suspected individuals or entities or related or connected individual identities as well as the funds, financial assets or economic resources or related services held by such customer on their books;

(d) BFIU will analyze the report and, if necessary, call for additional information, documents or inspect the Reporting agency and forward the case, if it is deemed appropriate, to the law enforcement agencies including CID of Bangladesh Police for further action and also keep the Focal Point of MOFA informed about suspected individuals or entities and the actions taken;

(e) 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 the Act, BFIU shall immediately issue an order to withdraw the stop-payment;

(f) 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 agency to maintain the stop payment until further instruction is given, in which case the provisions of section 15 of the Act shall not be apply;

(g) On receipt of the particulars or documents referred to in clause (f) above, CID of Bangladesh Police shall cause a verification so as to ensure that the individuals or entities identified by the reporting agency 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 agency 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;

(h) If CID finds that the individuals or entities that are identified by the reporting agencies and forwarded by the BFIU are the listed individuals or entities, it shall identify or trace out any property owned by or are held for the benefit of the listed individuals or entities, and immediately take measures to freeze or attach the property. CID shall inform the result of the verification to BFIU and/or the particulars of the frozen property to MOHA;

(i) 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 agency 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 or entities or any other person engaged in or suspected to be engaged in terrorism; and

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

17. Regarding financial assets or economic resources held outside reporting agencies.—(1) The Focal Point of MOHA shall forward the lists of suspected or listed individuals or entities to the Contact Point of all law enforcing agencies with the request to identify and trace out their existence in Bangladesh and any property held by them.

(2) In case, it is found that any listed individual or entity is holding financial assets or economic resources in 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 in the nature of immovable property to the Focal Point of MOHA, within the next working day.

(3) The Contact Point of the respective law enforcing agency may cause such verification to be conducted to ensure that the particulars sent by the Sub-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 enforcing agencies 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 Sub-Registrar performing the work of registering immovable properties and convey the particulars to BFIU to check any transaction conducted.

(5) Having been informed by BFIU, the reporting agency shall monitor the transactions and 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 reporting agency shall bring such matters to the notice of the BFIU.

(6) The contact point of law enforcing agency shall take reasonable measures to prohibit any individual or entities from making any funds, financial assets or economic resources or related services available for the benefit of the individual or entities engaged in or suspected to be engaged in terrorism. The contact point shall immediately bring such matters to the notice of the Focal Point of MOHA.

(7) Focal point of MOFA shall take responsible measure consulting with the National Committee to report it to the UN sanction committee.

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

18. Implementation of requests received from foreign countries under United Nations Security Council Resolution 1373 of 2001.—(1) To give effect to the requests of foreign countries under the UNSCR 1373 of 2001, Focal Point of MOFA shall examine the request made by a foreign country and inform the National Committee, and thereafter forward it with their comments to the Focal Point of the concerned Ministries, Division and organization for necessary action.

(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, to suspect or believe that the proposed designee is a terrorist one who finances for terrorism or a terrorist organization, and being satisfied, shall forward the request to the BFIU and the Contact Points of the relevant law enforcing agencies. The provisions of these Rules shall be applicable for the listed individuals and entities, as well as for the proposed designee.

(3) Upon receipt of the request from the Focal Point of MOHA, the Contact Points shall follow the procedures as mentioned under rule-16 and rule 17.

(4) The freezing orders shall take place without prior notice to the listed individuals or entities involved.

(5) If any match found, the chairman of the National Committee shall forthwith inform the matter to the requested party and actions taken thereof.

19. 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 agency or to the Contact Point of the law enforcing agency praying for unfreezing of such funds, financial assets or economic resources or related services.

(2) The reporting agencies 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) Upon receipt of application the contact point of the law enforcing agency shall forward a copy of that application to the focal point of MOHA together with full details of frozen funds, financial assets or economic resources or related services along with their details comment.

(4) 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 being satisfied 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, giving intimation to the concerned reporting agency or the Contact Points. If it is not possible for any reason to pass an order for unfreezing the assets within 15 working days, the Focal Point of MOHA shall inform the applicant about the same.

(5) If the Focal Point of MOHA is not convinced with the supporting documents or information, he will forward it to the National Committee. Where the National Committee is unable to decide about the application and the applicant wishes to continue his effort, the National Committee shall extend necessary support to settle the application through the respective UNSCR Committees.

20. Regarding prevention of entry into or transit through Bangladesh.—

(1) As regards prevention of entry into or transit through Bangladesh of the listed individuals or entities, 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 their 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 take appropriate boarder control measures to ensure strict compliance of the instruction of sub-rule (1) and also communicate to the Focal Point of MOHA within the next working day the details of entry or transit through Bangladesh of the listed individuals to prevent them.

(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.

21. Regarding supply, sale or transfer of arms and ammunition.— (1) To prevent any direct or indirect supply, sale and transfer in or outside Bangladesh, of arms and ammunition and other related items, materials, equipment, goods and technologies to the individuals or entities listed by the respective UNSCR Committee, respective customs authority shall take appropriate measures to identify, trace out and attach the items and handover the attached items to the concerned law enforcing agency immediately.

(2) Contact Point of the respective customs authority shall immediately inform the matter with full details to the Focal Point of National Board of Revenue (NBR) regarding supply, sale and transfer in or outside Bangladesh of arms and ammunition etc. as mentioned in sub-rule (1). Focal point of NBR shall forthwith forward full details of such descriptions to the focal point of MOHA and BFIU for further action to be taken.

(3) If any match found focal point of MOHA or BFIU as the case may be, shall inform the matter to the focal point of MOFA.

22. Denial of permission for any aircraft to take off or land in the territory when owned, leased or operated by or on behalf of the individual or entities enlisted by the respective Committee of United Nations Security Council.—To deny permission for any aircraft to take off or land in the territory if it is owned, leased or operated by or on behalf of the individuals or entities listed by the respective UNSCR Committee the following measures shall be taken, namely—

(a) In the airport, the contact point of Civil Aviation Authority of Bangladesh (hereinafter referred to as CAAB) shall check the list of UNSCR committee and shall take appropriate measure if any match found. Where any match found, CAAB shall immediately inform about the details of the aircraft to the traffic control authority of the airport;

(b) If the aircraft has already been landed, traffic control authority of the concerned airport shall take appropriate measures to put embargo regarding taking off such aircraft; and

(c) the Contact Point of CAAB shall inform the same to the concerned law enforcing agency as well as the Focal Point of Ministry of Civil Aviation and Tourism.

23. Prevention of illicit trafficking of nuclear, chemical or biological weapons, their means of delivery and related materials, including inspection of cargo to and from the individuals by entities enlisted by the respective United Nations Security Council Committee.—To prevent illicit trafficking of nuclear, chemical or biological weapons, their means of delivery and related materials, including inspection of cargo to and from the individuals by entities enlisted by the respective UNSCR Committee the following measures shall be taken, namely—

(a) Respective customs authority shall indentify and trace out any kind of illicit trafficking of nuclear, chemical or biological weapons, their means of delivery and related materials, including inspection of cargo, and if any match found with individuals or entities listed by the respective UNSCR Committee, the authority shall immediately attach the above mentioned materials and inform the same to the concerned law enforcing agency;

(b) The Contact Point of the respective customs authority shall immediately inform the matter with full details to the Focal Point of the NBR within next working day;

(c) In appropriate cases, the CAAB shall indentify and trace out any kind of illicit trafficking of nuclear, chemical or biological weapons and related materials, including through inspection of luggage and if any match found with individuals or entities listed by the respective UNSCR Committee, the CAAB shall attach such material immediately and inform the same to the concerned law enforcing agency as well as to the Focal Point of the Ministry of Civil Aviation and Tourism;

(d) Upon receipt of the details of the attached materials mentioned in clause (a), (b) and (c), the Focal Point of NBR and where appropriate the Focal Point of the Ministry of Civil Aviation and Tourism shall inform the matter to the focal point of BFIU and focal point of MOHA for further enquiry or investigation regarding the identified person or entities; and

(e) Focal point of BFIU shall follow the procedure stipulated under rule-16 and Focal Point of MOHA shall follow the procedure stipulated under rule-17.

24. Exemptions.—(1) Freezing, seizing or attaching funds or other financial assets or economic resources held by or on behalf of the listed individuals or entities shall not apply to necessary funds and other financial assets or economic resources 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 as determined by the National Committee.

(2) Exemptions given under sub-rule (1) shall be notified by the National Committee to the UNSCR Committee of its intention to authorize, where appropriate, access to such funds, assets or resources and in the absence of a negative decision by the UNSCR 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 No. 1718.

(3) Access may be allowed to the frozen funds, financial assets or economic resources for necessary extraordinary expenses, provided that such determination has been notified by the National Committee to the UNSCR Committee and has been approved by the UNSCR Committee.

(4) The National Committee may receive requests from listed individuals and entities seeking for such exemptions and the National Committee shall transmit such requests to the UNSCR Committee for a decision. The National Committee shall notify the UNSCR Committee's decision to such individuals or entities seeking for exemptions.

25. **False positives.**—Upon request by any of the listed individuals and entities, the National Committee may 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 satisfied that the individual or entity is not the actual enlisted individuals or entities.

26. **Delisting procedures.**—The individuals and entities listed under UNSCR 1267 and UNSCR 1988 sanctions regimes may 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>.

27. **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 UNSCR 1988 Sanctions List, the National Committee shall notify listed individuals and entities of their designation, describing 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.

28. **Procedure for communication of compliance of action taken.**—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 along with details of the individuals whose funds or other financial assets are frozen by an order and whose entry into Bangladesh or transit through Bangladesh was prevented. The Focal Point of MOFA shall communicate the matter to the United Nations.

29. **Gateways for exchanging information.**—The Government, under arrangements entered into by the Government of Bangladesh with the Office of the Ombudsperson or any other country or such other 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.

Part-V**Freeze, seize, attachment or confiscation of proceeds of terrorism**

30. Freeze, seize or attachment of terrorist property by District Magistrate.—(1) While applying to District Magistrate under section 23A of the Act for seizure or attachment of terrorist property, the investigating officers shall mention as much detail as possible about the property, person or entity involved along with reasons for such suspicions; probable attempt to use the fund in the commission of terrorist activity or other offence under the Act or the possibility of disappearing of the property soon after commission of offence.

(2) An application filed by an investigating officers under sub-rule (1), shall be examined by the District Magistrate to ascertain the reasonableness of the application to the effect that the proposed property may be used in the commission of offence under the Act.

(3) The District Magistrate shall dispose of the application on merit filed by the investigating officer under sub-rule (1), and in an appropriate case pass an order as prayed for by the investigating officer.

(4) An order passed by a District Magistrate under sub-rule (3) shall contain the duration of such an order and expiry date thereof.

(5) Where the terrorist property have been mingled with the property acquired from legitimate sources or the value of the terrorist property cannot be determined, then full value of the mingled property shall be liable to be seized or attached by the investigating officer or by the District Magistrate in appropriate cases.

(6) Where an offence is committed under the Act, but the terrorist property utilized for that purpose cannot be located or identified or trace out or is dissipated soon after the commission of the offence, the District Magistrate may pass on order of seizure or attachment of an equivalent value of property or fund belonging to the suspected individual or entity accused to have committed the offence.

(7) The aggrieved person or entity by the freeze, seize or attachment order of District Magistrate may file an application against such an order during the continuance of the order already passed by the District Magistrate. Such an application shall contain necessary information and documents in support of the contention.

32. Appointment of a manager or caretaker for taking care of the frozen, attached or confiscated property.—If any property is frozen, attached or confiscated under the Act, the court may, upon an application of the investigating agency or any person authorized by it, appoint any law enforcing agency as a manager or caretaker of the property to take control, manage, look after or, in any other manner, deal with the total property or any part thereof under such terms and conditions as may be directed by the Court.

33. Procedure for disposal of confiscated property.—(1) If any property is confiscated under the Act, the Government may, subject to the permission of the court, sell or in any other way dispose of such property other than the property which is required to be destroyed under any other law, by means of an open auction or by any other commercially profitable and lawful means.

(2) The proceeds of the sale or disposal of the property in any other legal manner under sub-section (1) shall be deposited into the treasury of the State.

(3) The confiscated property or the proceeds of the sale of the confiscated property may be utilized for the purposes of combating terrorism or terrorist financing.

Part-VI

Investigation and others

34. Investigation of offences.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act No. V of 1898) while investigating an offence under the Act—

- (a) Where the accused person is arrested by police or is caught otherwise and is handed over to police, the investigation shall be completed preferably within the next 15 (fifteen) days but no later than 30 (thirty) days from the date of lodging First Information Report (FIR); or

-
- (b) Where the accused person is not arrested or remains absconding then the investigation shall be completed within the next 30 (thirty) days from the date of receiving information as to the commission of the offence or from the date of receiving the order of investigation from the officer in charge of the police station or by an officer empowered by him or by the Magistrate or by the Tribunal, as the case may be.

(2) If the investigation is not reasonably possible to complete within the stipulated time as mentioned in sub-rule (1), the investigating officer shall complete the investigation within the next 30 (thirty) days recording reasons thereof and he shall inform the matter to his controlling officer in writing or as in the case may be, to the Magistrate, or to the Tribunal who has passed the order of investigation.

(3) If the investigation is not completed within the stipulated time in sub-rule (2), the investigating officer shall inform the matter within the next 24 (twenty four) hours as to the non completion of investigation to his controlling officer or as the case may be, to the Magistrate, or to the Tribunal who passed the order of investigation.

(4) After being informed as to the non-completion of investigation within the stipulated time in sub-rule (3), the controlling officer or as the case may be, the Magistrate, or the Tribunal who passed the order of investigation, may delegate the power of investigation to any other officer and if any investigation of a case is so transferred, the authorized officer shall—

- (a) complete the investigation within next 15 (fifteen) days from the date of receiving order of investigation, where the accused person is remains under custody; or
- (b) complete the investigation within next 30 (thirty) days from the date of receiving order of investigation, in other cases.

(5) If the investigation is not completed within the time stipulated in sub-rule (4), investigating officer shall inform the matter within the next 24 (twenty four) hours as to the non completion of investigation to his controlling officer or as the case may be, to the Magistrate, or to the Tribunal who passed the order of investigation.

(6) In the case of non-completion of investigation within stipulated time in sub-rule (2) or sub-rule (4), if the controlling officer or as the case may be, the Magistrate, or the Tribunal who passed the order of investigation, decides that the investigating officer is responsible for the non-completion of investigation within stipulated time analyzing the concerned report of his explanation, in such a case, it shall be treated as inefficiency and misconduct of that person which shall be recorded in his annual confidential report and in appropriate case, actions may be taken against him according to his service rules.

(7) After submission of investigation report, if the Tribunal is satisfied by analyzing the contents of the investigation report that any of the accused persons requires to be made a witness for ends of justice, the Tribunal may pass an order directing an accused person to be treated as a witness instead of an accused.

(8) If it appears to the Tribunal after taking evidence that an investigating officer under the Act has submitted the report to save a person from the charge of an offence, or has not collected or considered any material evidence due to negligence which ought to have been taken into consideration or the investigating officer has made a person as a witness, instead of making an accused or has not examined an important witness while submitting the report, in such a case, the investigating officer shall be held responsible for which he may be charged with inefficiency and misconduct, and in an appropriate case, the Tribunal may direct the controlling authority of the investigating officer to take proper legal action against him.

(9) The Magistrate or the Tribunal on an application or on the basis on any information may pass an order directing the controlling authority of the investigating officer that the case shall be investigated by any other investigating officer other than the investigating officer already appointed.

35. Taking cognizance, etc.—(1) An offence punishable under the Act shall be cognizable. No Court shall take cognizance of any offence under the Act without prior sanction of the Government.

(2) Having been informed by the informant or otherwise, the concerned officer in charge of a police station shall lodge First Information Report (FIR) and immediately communicate the matter to the District Magistrate in writing along with a copy of the FIR, before starting investigation in view of the provision of section 40(1) of the Act. He shall also share the matter with BFIU if necessary.

(3) Before submitting the police report to the concern court of jurisdiction the investigation officer shall obtain necessary sanction from the Government through respective District Magistrate. The District Magistrate shall examine all relevant documents and information submitted to him and forward the same with his comment to the Government for obtaining sanction order.

(4) Subject to the provision of sub-rule (5), for an offence punishable under the Act, any person who is directly involved in the commission of the offence or the principal offender, shall not be enlarged on bail, if-

- (a) the prosecution is not given adequate opportunity of being heard where the prosecution raised objection against enlarging the accused person on bail; and
- (b) the Tribunal is satisfied that there are reasonable cause to believe him to be guilty for the alleged offence.

(5) If the accused person as mentioned in sub-rule (4), is a woman or child or physically sick or infirm, and the Tribunal is satisfied that there will be no miscarriage of justice if the accused person is enlarged on bail, the Tribunal may pass an order granting him bail.

(6) Except the person as mentioned in sub-rule (4), any other person who is accused to have committed offence under the Act, the Tribunal may enlarge him on bail recording reasons thereof, if the Tribunal is satisfied that there is reasonable cause to grant him bail for ends of justice.

Part-VII

Trial Procedure

36. Trial procedure.—(1) An offence committed under the Act shall be tried by a Tribunal constituted under the Act.

(2) Once commenced the trial, the Tribunal shall continue hearing of the case in every working day continuously without interruption until its completion.

(3) The Tribunal shall conclude the trial within 180 (one hundred eighty) days from the date of commencement of trial.

(4) If the Tribunal fails to conclude the trial within stipulated time as mentioned in sub-rule (3), it may extend a further period of 90 (ninety) days recording reasons thereof.

(5) If the judge of the Tribunal is transferred before the completion of the trial, the next judge posted in his place shall continue the trial from the stage where earlier judge has left case and it shall not be necessary to re-call the witnesses already deposed:

Provided that if the Tribunal thinks it fit and proper to re-call the witness for ends of justice, it may re-call the witness to depose once again.

(6) The Tribunal may conduct the trial in camera, in its own motion, or on an application of any person for holding the trial of an offence committed under the Act.

(7) If any child is accused to have committed an offence under the Act, or if any child is brought as a witness for trial of an offence committed under the Act, in such a case the provisions of the Children Act, 2013 (Act No XXIV of 2013) shall be followed as far as practicable.

37. Trial in absentia.—(1) If the Tribunal has reason to believe that—

- (a) the accused person has absconded or concealed himself to avoid arrest or for not being produced for trial; and
- (b) there is no possibility of arresting him immediately;

the Tribunal shall, may by order published in at least two national daily Bengali newspapers having wide circulation, direct such person to appear before it within such time as may be specified in the order, which shall not exceed 30 (thirty) days, and if such person fails to appear before it, the Tribunal may try such person in his absence.

(2) Where in a case after the appearance or production of an accused before the Tribunal or having been released on bail, the accused person absconds or fails to appear, the procedure as laid down in sub-section (1) shall not apply, and the Tribunal shall, recording reasons thereof, try such person in his absence.

38. Power of the Magistrate for recording deposition in any place.—(1) If any police officer or any other person investigating any offence committed under the Act, or any police officer while arresting an accused at the place of occurrence, thinks that the deposition of a person, who has knowledge about the occurrence or has seen it in his own eyes, requires to be recorded without delay by a Magistrate for expeditious trial, he may, in writing or otherwise, request a First class Magistrate to record the deposition of that person.

(2) The Magistrate as mentioned in sub-rule (1), shall record the deposition of the aforesaid person at the place of occurrence or at any other suitable place, and send it directly to the investigating officer or the person so deposed for the purpose of submitting it before the Tribunal attaching it with the investigation report.

(3) If the trial of a person accused of an offence mentioned in sub-rule (1) begins in a Tribunal, and it appears to the Tribunal that the examination of the person whose deposition is recorded under sub-rule (2) is necessary for the ends of justice, but he is dead or is incapable of giving evidence or it is not possible to find out him or the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience, which under the circumstances of the case, would be unreasonable, then the Tribunal may admit the deposition as evidence of the case :

Provided that the Tribunal shall not punish the accused person solely on the basis of such deposition.

39. The evidence of chemical examiner, serologist, etc.—Where the evidence of any doctor, chemical examiner, assistant chemical examiner, serologist, handwriting expert, finger print expert or fire-arm expert appointed by Government after submission of report by examining any matter referred to him during the investigation of an offence under the Act is required in trial, but he is dead or is incapable of giving evidence or it is not possible to find out him or the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience, which under the circumstances of the case, would be unreasonable, then the examination report with his signature may be admitted as evidence in the trial conducted under the Act :

Provided that the Tribunal shall not punish the accused person solely on the basis of such report.

40. Presence of witness.—(1) For the purpose of serving the summons or warrant for holding trial under the Act, the summons or warrant shall be served upon the local police station of the last known address of the witness, and the burden of producing the witness before the Tribunal shall lie on the officer in charge of the said police station within whose jurisdiction the witness resides.

(2) Notwithstanding anything contained in sub-section-(1), one copy of the summons may be sent to the concerned witness and the District Police Superintendent or, as the case may be, to the Police Commissioner by registered post with acknowledgement.

(3) If the concerned police officer willingly neglects to serve the summons or warrant issued under this rule, the Tribunal may issue direction to the controlling authority of that police officer to take measures against him considering such negligence as inefficiency.

41. Application of the Code of Criminal Procedure, 1898 etc.—(1) Unless there is anything contained contrary in the Act, for filing a complaint, investigation, trial and disposal of case, the provisions of the Code of Criminal Procedure, 1898 (Act No. V of 1898) shall apply, and the Tribunal shall be deemed to be a Court of Session, and in this behalf, may exercise any or all powers of a Court of Session while trying any offence under the Act or any other similar offence.

(2) A person conducting case for the prosecution in a Tribunal shall be deemed to be a public prosecutor.

42. Anti-terrorism Tribunal.—(1) There shall be a Tribunal to be known as the Anti-terrorism Tribunal in every district for trial offences committed under the Act.

(2) The Tribunal shall be comprised of a single judge.

(3) The Government may appoint any District and Sessions Judge, or an Additional District and Sessions Judge, in addition to his own duty, as the judge of the Tribunal.

(4) Under sub-rule (3), the District and Sessions Judge includes the Additional District and Sessions Judge.

43. Jurisdiction of the Tribunal.—(1) The Tribunal shall not take cognizance of an offence without a written report made by a police officer not below the rank of a Sub-Inspector, or a person authorized in this behalf by an order, general or special, made by the Government.

(2) If any complainant submit a complaint to the Tribunal with an affidavit in this regard that he has failed by making a request of taking the complaint of an offence to any Police officer or any person authorized under sub-rule (1), the Tribunal shall, by examining the complainant,-

- (a) if satisfied, pass an order to a Magistrate for submitting a report within 7 (seven) working days after inquiry of the complaint;
- (b) if not satisfied, outright reject the complaint.

(3) If the Tribunal after receiving the report under sub-rule (2) is satisfied that—

- (a) the complainant has failed by making a request of taking an accusation of an offence to any Police officer or any person under sub-rule (1), and there is prima-facie evidence in support of that accusation, the Tribunal shall on the basis of that report and complaint, take cognizance of the offence;
- (b) it is not established that the complainant has failed by making a request of taking an accusation of an offence to any Police officer or any person under sub-rule (1), and there is no prima-facie evidence in support of that accusation, the Tribunal shall reject the complaint.

(4) In spite of having no recommendation in the report submitted under sub-rule (1) and (2) as to the commission of the offence or for taking measures thereof, the Tribunal may, if it thinks fit and proper for the end of justice, take cognizance of the offence recording reasons thereof.

(5) The report or complaint may be submitted to the Tribunal under whose jurisdiction the offence or any part thereof has been committed or where the offender is found, or in case of more than one offender, to the Tribunal under whose jurisdiction any one of the offenders is found, and such Tribunal shall try the offence.

(6) If any other offence committed is so closely connected with any other law together with an offence under this Act that, for the end of justice, both the offences shall be tried together in a single trial in accordance with the provisions of this Act.

44. **Appeal.**—Any party aggrieved by the order, judgment or sentence passed by the Tribunal may prefer an appeal in the High Court Division of the Supreme Court within 60 (sixty) days from the date of the order, judgment or sentence.

By order of the President,
C Q K MUSTAQ AHMED
Senior Secretary.