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UNITED NATIONS ACT (CHAPTER 339)

UNITED NATIONS (SANCTIONS — SOMALIA) REGULATIONS 2021

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In exercise of the powers conferred by section 2(1) of the United Nations Act, the Minister for Law makes the following Regulations:

Citation and commencement

1. These Regulations are the United Nations (Sanctions — Somalia) Regulations 2021 and come into operation on 4 October 2021.

Object

2. The object of these Regulations is to assist in giving effect to Resolutions 733 (1992), 751 (1992), 1425 (2002), 1844 (2008), 2002 (2011), 2036 (2012), 2093 (2013) and 2551 (2020).

Application

3.—(1) These Regulations do not apply to —

(a) any financial institution or class of financial institutions to the extent that the financial institution or class of financial institutions is or may be subject to the directions issued or regulations made by the Monetary Authority of Singapore under section 27A of the Monetary Authority of Singapore Act 1970; and

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(b) any VCC or class of VCCs to the extent that the VCC or class of VCCs is or may be subject to the directions issued or regulations made by the Monetary Authority of Singapore under section 83 of the Variable Capital Companies Act 2018.

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(2) In paragraph (1)(b), “VCC” has the meaning given by section 2(1) of the Variable Capital Companies Act 2018.

Definitions

4.—(1) In these Regulations, unless the context otherwise requires —

“Committee” means the Committee of the Security Council of the United Nations established under paragraph 11 of Resolution 751 (1992);

“designated export item” means any item, material, equipment, goods or technology —

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- (a) falling within the class or description specified in the third column of the Seventh Schedule to the Regulation of Imports and Exports Regulations (Cap. 272A, Rg 1), as in force on 4 October 2021, in relation to Somalia (specified in the first column of that Schedule); and
 - (b) the exporting from, transshipment in, or transit through, Singapore of which is prohibited under regulation 6(2)(c)(ii) of the Regulation of Imports and Exports Regulations in relation to Somalia;

“designated import item” means any item, material, equipment, goods or technology —

- (a) falling within the class or description specified in the second column of the Seventh Schedule to the Regulation of Imports and Exports Regulations, as in force on 4 October 2021, in relation to Somalia (specified in the first column of that Schedule); and
- (b) the importing into, transshipment in, or transit through, Singapore of which is prohibited under regulation 6(2)(c)(i) of the Regulation of Imports and Exports Regulations in relation to Somalia;

“designated person” means any individual or entity set out in the UN List subject to the conditions set out in paragraph (2);

“Director-General” means the Director-General of Customs appointed under section 4(1) of the Customs Act 1960;

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“funds” includes cheques, bank deposits and other financial resources;

“officer of customs” has the meaning given by the Customs Act 1960;

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“property” means real or personal property, movable or immovable, and includes a lease of immovable property as well as a right or an interest in that property;

“Resolution” means a Resolution of the Security Council of the United Nations;

“UN List” means collectively the lists of individuals or entities identified by the Security Council of the United Nations or the Committee as individuals or entities to whom or to which the measures specified in paragraphs 1, 3 and 7 of Resolution 1844 (2008), paragraph 1 of Resolution 2002 (2011) or paragraph 43 of Resolution 2093 (2013) apply, and includes any such list as updated from time to time by the Security Council of the United Nations or the Committee, and made available on the Internet through the official United Nations website at <http://www.un.org/>.

(2) The conditions mentioned in the definition of “designated person” in paragraph (1) are —

- (a) where any individual or entity is added to the UN List on or after 4 October 2021, the individual or entity is taken to be a designated person with effect from the date immediately following the date of addition to the UN List;
- (b) where any individual or entity is removed from the UN List, the individual or entity ceases to be a designated person with effect from the date of removal from the UN List; and
- (c) where the particulars of any individual or entity in the UN List are modified on or after 4 October 2021, the particulars of the individual or entity are taken to be modified for the purposes of these Regulations with effect from the date immediately following the date of modification of the UN List.

Prohibition against dealing with funds, etc., of designated person, etc.

5. A person in Singapore or a citizen of Singapore outside Singapore must not deal, directly or indirectly, with any funds or other financial assets or economic resources that are owned or controlled, directly or indirectly, by or on behalf of —

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- (a) a designated person;
 - (b) an individual or entity that acts on behalf of or under the direction of a designated person; or
 - (c) an entity owned or controlled by a designated person.

Prohibition against making available funds, etc., to or for benefit of designated person, etc.

6. A person in Singapore or a citizen of Singapore outside Singapore must not make available any funds or other financial assets or economic resources, directly or indirectly, to or for the benefit of —

- (a) a designated person;
- (b) an individual or entity that acts on behalf or under the direction of a designated person; or
- (c) an entity owned or controlled by a designated person.

Prohibition against supply of technical advice, etc., related to military activities

7. A person in Singapore or a citizen of Singapore outside Singapore must not supply to a person in Somalia or a designated person, directly or indirectly, any technical advice, technical assistance or training, financial or other assistance, including investment, brokering or other financial services, that is related to —

- (a) military activities; or
- (b) the supply, sale, transfer, manufacture, maintenance or use of any designated export item.

Prohibition against supplying designated export items

8. A person in Singapore or a citizen of Singapore outside Singapore must not supply, sell or transfer, directly or indirectly, any designated export item to a person in Somalia or a designated person.

Prohibition against procuring designated import items

9. A person in Singapore and a citizen of Singapore outside Singapore must not procure, directly or indirectly, any designated import item from a person in Somalia, whether or not the item originated in Somalia.

Prohibition against using Singapore ship or aircraft to supply designated export item

10. An owner or a master of a ship registered as a Singapore ship under the Merchant Shipping Act 1995, or an owner or operator of an aircraft registered in Singapore under the Air Navigation Act 1966, must not carry, or cause or permit to be carried, on board or on or in any part of the ship or aircraft any designated export item for supply, sale or transfer to a person in Somalia.

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General prohibition

11. A person in Singapore or a citizen of Singapore outside Singapore must not knowingly do anything that —

(a) causes, assists or promotes; or

(b) is intended to cause, assist or promote,

any act or thing prohibited by regulation 5, 6, 7, 8, 9 or 10.

Duty to provide information

12.—(1) Every person in Singapore and any citizen of Singapore outside Singapore who —

(a) has possession, custody or control of any property belonging to —

(i) a designated person;

(ii) any individual or entity which acts on behalf of or under the direction of a designated person; or

(iii) any entity owned or controlled by a designated person;

- (b) has information about any transaction or proposed transaction in respect of any property belonging to any designated person, individual or entity mentioned in sub-paragraph (a); or
- (c) has information about any act or thing prohibited by regulation 5, 6, 7, 8, 9, 10 or 11,

must —

- (d) immediately inform the Commissioner of Police or any authorised person of that fact or information; and
- (e) provide any further information relating to the property, transaction or proposed transaction, act or thing that the Commissioner of Police or authorised person may require.

(2) No criminal or civil proceedings shall lie against a person for any disclosure made in good faith under paragraph (1).

(3) In this regulation —

“authorised person” means any person designated by the Minister for the purposes of this regulation;

“Commissioner of Police” includes —

- (a) any police officer; and
- (b) any person authorised by the Commissioner of Police to act for him or her for the purposes of this regulation.

Power to investigate

13. Any person designated by the Minister for the purposes of this regulation may investigate into any offence under these Regulations and, when investigating that offence, may exercise all the powers of a police officer under the Criminal Procedure Code 2010 in relation to arrestable offences.

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Offences

14.—(1) A person who contravenes regulation 5, 6, 7, 8, 9, 10, 11 or 12(1) shall be guilty of an offence.

(2) It is a defence for a person charged with an offence for contravening regulation 12(1) to prove that the person had a reasonable excuse for the contravention.

Forfeiture

15.—(1) A court may, on the application of the Attorney-General, order that anything which has been proven to the court's satisfaction on a balance of probabilities to be a designated export item or designated import item that is —

- (a) the subject of a contravention of regulation 8 or 9 or carried on board or on or in any ship or aircraft in contravention of regulation 10; or
- (b) the subject of a contravention of regulation 6 of the Regulation of Imports and Exports Regulations,

is to be forfeited to the Government, and either destroyed or otherwise dealt with in any manner that the court may order.

(2) In particular, the court may order —

- (a) in the case of anything seized by an officer of customs, that the thing be dealt with as the Director-General thinks fit, and in such a case, the Director-General may direct that it be destroyed or otherwise dealt with; or
- (b) in any other case, that the thing be dealt with as the Commissioner of Police thinks fit, and in such a case, the Commissioner of Police may direct that it be destroyed or otherwise dealt with.

(3) The court may require notice to be given to any person who, in the opinion of the court, appears to have an interest in the property to be forfeited.

(4) Where —

- (a) the court proposes to order any property to be forfeited under this regulation; and

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- (b) a person claiming to have an interest in the property has applied to be heard by the court,

the court is not to order the property to be forfeited unless that person has been given an opportunity to show cause why the order should not be made.

(5) The court may make an order of forfeiture even though no person has been charged with or convicted of an offence of contravening regulation 8, 9 or 10 of these Regulations or regulation 6 of the Regulation of Imports and Exports Regulations in relation to the property to be forfeited.

Exemption

16.—(1) The Minister or a person designated by the Minister may, if he or she considers that it is appropriate to do so in the circumstances of the case and that it is consistent with the intention of the United Nations Security Council under paragraph 4 or 5 of Resolution 1844 (2008), by written notice exempt, subject to any conditions that he or she may specify —

- (a) any person or class of persons; or
- (b) any activity or class of activities,

from regulation 5 or 6.

(2) The Minister or a person designated by the Minister may, if he or she considers that it is appropriate to do so in the circumstances of the case and that it is consistent with the intention of the United Nations Security Council under paragraph 9 or 19 of Resolution 2551 (2020), by written notice exempt, subject to any conditions that he or she may specify —

- (a) any person or class of persons; or
- (b) any activity or class of activities,

from regulation 7, 8 or 10.

Made on 22 September 2021.

LAI WEI LIN
*Permanent Secretary,
Ministry of Law,
Singapore.*

[LAW 15/007/11.3 v1; AG/LEGIS/SL/339/2020/12 Vol. 1]

(To be presented to Parliament under section 2(4) of the United Nations Act).