

**SUBSIDIARY LEGISLATION**

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**THE PREVENTION OF TERRORISM ACT  
(Cap. 19)**

**THE PREVENTION OF TERRORISM (GENERAL)  
REGULATIONS, 2011**

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THE PREVENTION OF TERRORISM ACT  
(Cap. 19)

REGULATIONS

THE PREVENTION OF TERRORISM (GENERAL)  
REGULATIONS, 2011

PART 1  
PRELIMINARY PROVISIONS

1. These regulations may be cited as the Prevention of Terrorism (General) Regulations, 2011 and shall come into force on the publication date. Citation
2. These Regulations shall apply in Mainland Tanzania as well as Tanzania Zanzibar. Application
3. In these Regulations: Interpretation
- “Act” means the Prevention of Terrorism Act; Cap. 19
- “accountable entity” means an entity set out in Part II of the Schedule;
- “entity” means a person, organization, trust, partnership, fund or an incorporate or unincorporated body;
- “financial institution” shall have a meaning ascribed to it under the Banking and Financial Institutions Act; Cap. 342
- “freeze” means to restrain any dealing in funds.
- “funds” shall have a meaning ascribed to it under the Act;
- “Inspector General of Police” shall have a meaning ascribed to it under the Police Force and Auxiliary Services Act; Cap. 3
- “Minister” means a Minister responsible for home affairs;
- “property” shall have a meaning ascribed to it under the Act; and
- “terrorist funds” means funds which are intended to be used for terroristic purposes, resources of an organization which is designated as a terrorist organization, cash or other resources obtained through terrorism.

PART II  
SPECIFIED ENTITIES

4.-(1) Any person belonging to, or engaged in any entity declared by the Minister to be a terrorist or a organization belonging to a terrorist group is prohibited from entering the United Republic.

Declara-  
tion of  
specified  
entities

(2) A person shall not operate, deal in, or engage in or undertake any activities of the groups prescribed in subregulation(1).

(3) A person who is aggrieved by a declaration of the Minister under subregulation (2) may appeal to the High Court.

(4) An entity declared as a terrorist group under this regulation may be declared otherwise if:

- (a) the entity has been cleared by a court of competent jurisdiction; or
- (b) the entity has been delisted from the Consolidated List of International Terrorists provided by any UN Resolution.

PART III  
REQUEST AND EXCHANGE OF INFORMATION

5.-(1) The Director General of Immigration may communicate or provide information to a foreign state as provided for under section 45 of the Act, if:

Provisions  
of  
informa-  
tion to  
foreign  
states

- (a) the state have signed bilateral agreement with the United Republic of Tanzania on mutual assistance in criminal matters;
- (b) the state is a party to UN Conventions on counter terrorism; or
- (c) the state is a member of the International Police Organization.

6. Where there is a request of information or report by the United Nations or a foreign state in relation to terrorist financing, the relevant authority may request the relevant accountable entity to provide such information or report.

Request  
from  
United  
Nations,  
etc

PART IV  
DISCLOSURE OF INFORMATION BY MEMBERS OF PUBLIC

7.-(1) Every accountable entity shall keep a record of any complex, unusual or large transactions which have no apparent economic or lawful purpose.

Disclosure  
of  
informa-  
tion by  
members  
of public

(2) Where a police officer or any other relevant authority request for information of the transaction under subregulation (1), the entity shall provide the information or a report of the transaction, as the case may be, with details of parties involved in such transaction.

(3) An accountable entity which has in its possession or under its control a property owned or controlled by, or on behalf of, or at the direction of -

(a) any entity which committed or attempted to commit or facilitated the commission of a specified offence; or

(b) a specific entity identified in a notice issued by the Minister acting under this or any other law shall, within the prescribed period, report that act and the particulars of the fact to the Inspectors General of Police;

(4) Upon receipt of the report, the Inspector General of Police shall direct an accountable entity under subregulation (1) to report:

(a) at such intervals as may be determined in the direction, that it is still in possession or control of the property in respect of which report under subregulation (2) has been made; and

(b) any change in the circumstances concerning the accountable entity's possession or control of that property.

(5) Any person who fails, within the prescribed period, to report to the police the information referred to in sub section (2) or to make a period report pursuant to this regulation, commits an offence and on conviction shall be liable to imprisonment for a term of not less than two years and not more than five years.

Obligation  
to report

8.-(1) A person who carries on a business or is in charge of, or manages a business or employed in a business and knows or ought reasonably to have known or suspected that-

(a) the business has received or is about to receive a property which is connected to an offence relating to the financing of terrorism or related activities;

(b) a transaction or series of transactions to which the business is a party-

(i) facilitated or is likely to facilitate the transfer of property which is connected to an offence relating to the financing of terrorism or related activities.

(ii) has no apparent business or lawful purpose; or

(iii) is conducted in contravention of the Act or these Regulations;

(c) the business has been used or is about to be used in a way to facilitate the commission of an offence relating to the financing of terrorism or related activities within the prescribed period, report the matter to the police in the manner provided for in section 7(3).

(2) Any person who fails, within the prescribed period, to report the matter under subregulation (1) to the Police, commits an offence and on conviction shall be liable to imprisonment for a term of not less than two years and not more than five years.

9.-(1) A person acting under these Regulations shall, under no circumstances, disclose to his client or a third party that:

Prohibition of tipping-off

- (a) information was provided to the Police or any other relevant authority;
- (b) a report concerning suspected financing of terrorism will be, or is being or has been submitted to the Police or any other relevant authority; or
- (c) financing of terrorism investigation is being or has been carried out.

(2) Subregulation (1) shall not be construed as to preclude the disclosure or communications of information regarding suspicious financing of terrorism or related activities between officers and employees of an accountable entity.

(3) Any person who contravenes any provisions of this regulation commits an offence under the Act and these Regulations.

10. Where a relevant authority or an officer designated by the authority, and upon consultation with an accountable entity, a reporting institution or a person required to make a report pursuant to section 8 and 9 of the Act have reasonable grounds to suspect that a transaction or proposed transaction may involve the proceeds of terrorism activities or property which is connected to an offence relating to the financing of terrorism or related activities, it may, in writing direct the accountable entity, reporting institution or the person, not to proceed with the transaction or proposed transaction for such a period as may be determined by the authority or order to allow the relevant authority:

Powers of police in respect of report

- (a) to make necessary inquiries concerning the transaction; and
- (b) if the relevant authority deem it appropriate, to inform and advise an investigating authority or the Attorney General.

Monitoring orders

11.-(1) A court may, upon written application by a relevant authority and, on such terms and conditions as may be specified in the order, order an accountable entity to report to such authority, all transactions concluded by a specified person with the accountable institution or transaction conducted in respect of a specified account or facility at the accountable institution, if there are reasonable grounds to suspect that-

- (a) the person has transferred or may transfer the proceeds of unlawful activities or property which is connected to an offence relating to the financing of terrorism or related activities to the accountable entity or is using or may use the accountable entity in financing of terrorism or related activities; or
- (b) the an account or other facility has received or may receive property which is connected to an offence relating to the financing of terrorism or related activities or is being or may be used for the financing of terrorism or related activities.

(2) An order under subregulation (1) shall expire after three months, unless it is extended in terms of subregulation (3).

(3) A court referred to in subregulation (1) may extend an order issued in terms of subregulation (1) for further period not exceeding three months at a time, if:

- (a) the reasonable grounds for the suspicion on which the order is based, still exist; and
- (b) the court is satisfied that the interest of justice is best served by monitoring the person, the account or the facility referred to in subregulation(1).

(4) An application referred to in subregulation (1) shall be heard and an order be issued without notice to, or hearing the person or persons involved in the suspected terrorist activities.

Reporting duty and obligations to provide information

12.-(1) Subject to subregulation (2), no duty of secrecy or confidentiality or any other restriction on the disclosure of information shall affect compliance by an accountable entity, supervisory body, or the revenue authorities or any other person under these Regulations.

(2) Subregulation (1) shall not apply to the common law right to legal professional privilege between an attorney and his client in respect of communication made in confidence between-

- (a) the attorney and his client for the purposes of legal advice or litigation which is pending or contemplated or which has commenced; or

- (b) a third party and an attorney for purposes of litigation which is pending or contemplated or has commenced.

13.-(1) No action whether criminal, civil, disciplinary or administrative shall lie against an accountable entity, supervisory body, or revenue authorities or any other person complying in good faith with any provisions of these Regulations including any director, employee or any other person acting on behalf of such accountable entity, reporting institution, supervisory body, the revenue authorities or such other person.

Protec-  
tion of  
persons  
making  
reports

(2) A person who has made, initiated or contributed to a report under sections 7 and 8 or who has furnished additional information concerning such a report in terms of provisions of these Regulations is competent, but not compellable, to give evidence in criminal proceedings arising from the report.

(3) No evidence concerning the identity of the person referred to under subregulations (1) is admissible as evidence in criminas proceedings unless that person testifies to those proceedings.

## PART V

### GENERAL PROVISIONS

14.-(1) A court may, *ex parte* application by the Attorney-General, make an order prohibiting any person from engaging in any conduct or directing any person to cease any conduct in relation to property in respect of which there is reasonable ground to believe that the property is owned or controlled by or on behalf of, or at the direction of-

Freezing  
order

- (a) any entity which has committed, attempted to commit participated in or facilitated the commission of a specified offence;
- (b) an entity belongs to entities set out in a notice issued by the Minister under section 48 of the Act.

(2) An order made under subregulation (1) may include an order to freeze any such property.

(3) The High Court may make an interim order subregulation (1) pending its final determination of an application for such an order.

15. The Attorney General may make an *ex parte* application to the Court for freezing or restraining order in respect of:

Grounds  
for  
freezing  
or  
restraining  
order

- (a) Property owned controlled by, or on behalf of, a terrorist group;
- (b) property owned by a person who is a member of, or belongs to an international terrorist group;



- (c) property owned or controlled by a person who has links with an international terrorist group and he reasonably believes that the person is a risk to national security;
- (d) property owned or controlled by a person who is listed as a person involved in terrorist acts in any resolution of the United Nations Security Council or in any instrument of international community.
- (e) property owned or controlled by a person who is considered as a person involved in international terrorists acts by the United Republic of Tanzania or international community.

Notice for freezing or restraining order

16. Where the Court is satisfied, on balance of probabilities, that the property is owned, controlled or on behalf of -

- (a) a terrorist group;
- (b) a member of terrorist group;
- (c) a person who has links with a terrorist group;
- (d) a person listed in the United Nations Security Council Resolutions or any other instrument of international community;
- (e) a person who is considered by the United Republic of Tanzania or International community to be involved in international terrorist acts,

shall issue a freezing or restraining order to that effect.

Protection of bona fide parties

17.-(1) Where the court has issued a freezing or restraining order under regulation 16, the Attorney General shall, give in writing and within twenty one days, give a notice to the person whom he reasonably believes will be affected by that order.

(2) Where a person having an interest in the property for which the freezing or restraining order has been issued is aggrieved or inadvertently affected by an order, he may, within sixty days of receiving the order, make an application to the court to exclude his interest from the order.

Further order

18.-(1) Where a court grants a freezing or restraining order, the Court may, at any time when it makes such order or at any later time, make any further orders that the court may consider appropriate, including:

- (a) an order revoking the restraining or freezing order;
- (b) an order varying the property to which the freezing or restraining order relates;
- (c) an order providing for reasonable living expences out of the property which is the subject of freezing or restraining order;
- (d) directing that, the property or such part of the property as specified

in the order be taken into the custody and the control of a trustee appointed for that purpose by the court.

(2) The Court shall not make any provision referred to under subregulation (1)(c), unless it is satisfied that the defendant will not meet such expenses out of the property that is not subject to a freezing or restraining order and the court determines that it in the interest of justice to make such provision.

(3) The trustee may, where he takes charge in terms of subregulation (1) (d), do anything that is reasonably necessary for the purpose of preserving the property, including:

- (a) becoming a party when civil proceedings affect the property;
- (b) ensuring that the property is insured; and
- (c) if the property consists, in whole or in part, of a business, employing or terminating employment of the persons employed in that business.

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SCHEDULE

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*(Made under regulation 19)*

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PART I

1. List of Proscribed Organizations

The following Organizations are declared as proscribed Organizations:

- (a) AL-SHABAAB AL ISLAMIYA
- (b) AL-QAEDA

PART II

2. Lists of Accountable Entities

- 1. An attorney.
- 2. A board of executors or a trust company or any other person that invests, keeps in safe custody, controls or administers trust property.
- 3. An estate agent.
- 4. A financial instrument trader.
- 5. A registered management company.
- 6. A person who operate banking business.
- 7. A mutual bank.
- 8. A person who carries on a long-term insurance business, including an insurance broker and an agent of an insurer.
- 9. A person who carries on a gambling business.
- 10. A person who operates a foreign exchange business.

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11. A person who lends money against the security of securities.
12. A person who carries on the business of rendering investment advice or investment broking services, including a public account.
13. A person who issues, sells or redeems travelers' cheques, money orders or similar instruments.
14. A member of a licensed stock exchange.
15. A person who remits money.

Dar es Salaam,  
19<sup>th</sup> October. 2011

HON. SHAMSI V. NAHODHA (MP),  
*Minister for Home Affairs*