

No. 15 – 2019

I assent,

[L.S.]

Sgd. P. L. Allen

Governor-General.

15th day of November 2019

AN ACT to Amend the United Nations Security Council Resolutions Implementation Act.

[15th November 2019]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the United Nations Security Council Resolutions Implementation (Amendment) Act, 2019, and shall be read and construed as one with the United Nations Security Council Resolutions Implementation Act (hereinafter referred to as the "principal Act") and all amendments thereto.

Short title and construction.

2. Section 2 of the principal Act is amended by deleting paragraph (e) of the definition of "financial institution" and substituting therefor the following—

Amendment of section 2 of principal Act.

"(e) a person who—

- (i) carries on life insurance business; or

- (ii) performs services as an insurance intermediary, in respect of life insurance business, within the meaning of the Insurance Act but does not include an insurance consultant or an adjuster.”.

Amendment
of section 3
of principal
Act.

3. Section 3 of the principal Act is amended as follows—

- (a) by deleting subsection (1) and substituting therefor the following—

“ (1) Subject to section 3A and subsection (2B), the Minister may, subject to affirmative resolution, make regulations to give effect to decisions—

- (a) of the Security Council under Chapter VII of the Charter; and

- (b) which Article 25 of the Charter requires Jamaica to carry out,

no later than thirty days after the date of adoption of resolutions in relation to such decisions or as soon as possible thereafter, in so far as those decisions require Jamaica to apply measures which do not involve the use of armed force.”;

- (b) in subsection (2), by inserting next after paragraph (f), the following new paragraph—

“ (fa) providing for the protection of *bonafide* third parties who act in good faith in dealing with assets in the manner so provided under section 8A;”;

- (c) by inserting next after subsection (2), the following new subsections—

“ (2A) Where a resolution of the Security Council provides that the withholding of assets of a person or entity that has been proscribed by regulations shall be subject to exceptions, the implementing regulations shall contain provisions which clearly specify the exceptions.

(2B) Pursuant to subsection (2A), where the resolution of the Security Council provides that the exceptions shall take effect unless an objection is received from the relevant committee established under Chapter VII of the Charter, then, unless the Minister receives an objection he shall proceed to bring the implementing regulations in relation to the exceptions into operation.”;

- (d) by inserting next after subsection (5) the following new subsections—

“ (5A) A person or entity that has been proscribed under this Act, pursuant to a decision of the Security Council, may submit directly to—

- (a) the appropriate authority designated to receive delisting requests pursuant to the relevant committee established under Chapter VII of the Charter; or
- (b) the focal point established for de-listing under the United Nations Security Council Resolution, 1730;

a request for delisting of the person or entity from the list of persons or entities proscribed by the Security Council.

(5B) Where the person or entity requesting delisting is a person in Jamaica or a Jamaican outside Jamaica, the request for delisting may be submitted through the Minister for transmission in the manner provided for in subsection (5A), as the case may require.”;

- (e) by inserting next after subsection (6), the following new subsection—

“ (6A) The Minister may, by order, amend the Schedule to any implementing regulations and make such consequential amendments in relation thereto.”.

Insertion of
new section
3A in
principal Act.

4. The principal Act is amended by inserting next after section 3, the following new subsection—

“Making of
order by
Judge of the
Supreme
Court.

3A.—(1) This section shall apply where a person or an entity is included on a list of persons or entities designated as proscribed persons or entities by a decision of the Security Council pursuant to Chapter VII of the Charter.

(2) Without prejudice to section 3, the Director of Public Prosecutions shall make an application to a Judge of the Supreme Court for an order to declare the person or entity to be a proscribed person or proscribed entity, as the case may require.

(3) An application under subsection (2) shall—

- (a) be made *ex parte*; and
- (b) be accompanied by an affidavit deposing to the matters referred to in subsection (1);

(4) Upon the making of an application under subsection (3), the Judge may, by order, declare a person or entity to be a proscribed person or proscribed entity, as the case may require, if the Judge is satisfied as to the matters referred to in subsection (1).

(5) Where an order is made under subsection (4), the Minister and the designated authority shall cause a copy of the order to be published—

- (a) on its public website within twenty-four hours after the order is made; and
- (b) in a daily newspaper in circulation in the Island.”

5. Section 5 of the principal Act is amended—

Amendment
of section 5
of principal
Act.

- (a) by inserting next after subsection (3), the following new subsections—

“ (3A) Every entity referred to in subsection (2) shall be required to report to the designated entity—

- (a) any transaction or attempted transaction that is believed or known to be related to a person or entity that is proscribed by regulations made under section 3(2)(a) or by an order made under section 3A, and any assets that are owned or controlled by or on behalf of such person or entity and are in possession or control of the entity;
- (b) any breach of any provision under this Act by a person or entity that is proscribed by regulations made under section 3(2)(a) or by an order made under section 3A;
- (c) any assets—
 - (i) which are owned and controlled by or on behalf of a person or entity that is proscribed by regulations made under section 3(2) or by an order made under section 3A;
 - (ii) in possession or control of the entity; and
- (d) any other action that has been taken in relation to a person or entity that is proscribed by regulations made under section 3(2) or by an order made under section 3A, in compliance with any directives or requirements under this Act.

(3B) All reports made under subsection (3A) shall be disclosed to regulators of financial institutions and designated non-financial institutions as an authorized disclosure.”;

- (b) in subsection (5), by inserting next after the words “subsection (3)”, the words “and subsection (3A)”;
- (c) in subsection (6), by inserting next after the words “subsection (3)”, the words “and subsection (3A)”.

Insertion of
new section
8A in
principal Act.

6. The principal Act is amended by inserting next after section 8, the following new section—

“Dealing with
assets, etc.
of pro-
scribed
person or
entity.

8A.—(1) No person in Jamaica and no Jamaican outside Jamaica shall, in relation to a person or entity that is proscribed by section 3(2) or by an order made under section 3A, knowingly—

- (a) deal directly or indirectly with any assets that are owned or controlled by or on behalf of, or at the direction of, the person or entity that is proscribed, including funds derived or generated from property owned or controlled directly or indirectly by that person or entity;
- (b) enter into or facilitate, directly or indirectly, any transaction in respect of assets referred to in paragraph (a);
- (c) provide any financial or other related services in respect of any assets referred to in paragraph (a) to, for the benefit of, or at the direction of, the person or entity;
or
- (d) make any property or any financial or other related service available, directly or indirectly, for the benefit of the person or entity, or convert any such property or

take steps to convert or disguise that the property is owned or controlled by or on behalf of the person or entity.

(2) A person who acts reasonably in taking, or omitting to take, measures to comply with subsection (1) shall not be liable in any civil action arising from having taken or omitted to take the measures, if the person took all reasonable steps to satisfy himself that the relevant assets were owned or controlled by, or on behalf of, the person or entity proscribed by said regulations.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment, to a fine or imprisonment for life.

7. The principal Act is amended by inserting next after section 14, the following new section—

Insertion of
new section
14A in
principal Act.

“Notification of designation and the issuance of guidelines by relevant authority.

14A. The relevant authority shall—

- (a) notify, in the prescribed manner, all financial institutions and designated non-financial institutions, of all designations and de-listings of proscribed persons and entities; and
- (b) issue guidelines to such financial institutions and designated non-financial institutions on measures to prevent proliferation financing.”.

Passed in the Senate this 25th day of October, 2019 with two (2) amendments.

AUBYN HILL
Deputy President.

Passed in the House of Representatives this 29th day of October, 2019.

PEARNEL P. CHARLES, CD, MP, JP

Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sgd. Valerie A. Custie
Clerk to the Houses of Parliament.