

The Gazette  **of Pakistan**

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, MARCH 4, 2019

PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

MINISTRY OF FOREIGN AFFAIRS

ORDER

Islamabad, the 4th March, 2019

S. R. O. 261(I)/2019.—In exercise of the powers conferred by section 2 of the United Nations (Security Council) Act, 1948 (XIV of 1948), the Federal Government is pleased to make the following Order, namely:—

CHAPTER I

PRELIMINARY

1. **Short title and commencement.**—(1) This Order may be called the United Nations Security Council (Freezing and Seizure) Order, 2019.

(2) It shall come into force at once.

2. **Definitions.**—(1) In this Order, unless the context otherwise requires,—

439(1-11)

Price : Rs. 20.00

[320(2019)/Ex. Gaz.]

- (a) **“Act”** means the United Nations (Security Council) Act, 1948 (XIV of 1948);
- (b) **“Authorized Agency”** means the Ministry of Foreign Affairs and such other agency or department designated by it;
- (c) **“Designated”** means the listing of entities and individuals by the Sanctions Committee of the United Nations Security Council for applying sanctions including freezing and seizing **properties** of such entities, individuals as the case may be; and **“designated entity”** and **“designated individual”** shall be construed accordingly;
- (d) **“Domestic listing”** means the issuance of an order by the Federal Government pursuant to section 2 of the Act to list a designated entity or designated individual in Pakistan for applying **sanctions** including freezing and seizing properties of such entity or individual;
- (e) **“Effective Control”** means the ability to exercise actual or constructive control over a property whether or not that control is supported by any right, interest or other legally enforceable power relating to the property;
- (f) **“Form”** means a form appended to this Order;
- (g) **“Freeze”** means to take an action to prohibit the transfer, conversion, disposition or movement of a property;
- (h) **“Person”** includes any agency, association, authority, body, company, department, entity, firm, office or individual;
- (i) **“Property”** means property of any description, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and includes deeds and instruments evidencing title to, or **interest** in, such property, including cash and monetary instruments, wherever located;
- (j) **“Seize”** means to take custody or control of a property with a view to prohibit transfer, conversion, disposition or movement of the property; and
- (k) **“Seizing Agency”** means any person, whether governmental or non-governmental, public or private, to whom a request is made by the Authorized Agency to freeze or seize any property.

(2) All other terms and expressions used but not defined in this Order shall have the same meaning as assigned to them in the Pakistan Penal Code, 1860 (XLV of 1860) or the Code of Criminal Procedure, 1898 (V of 1898).

CHAPTER II

FREEZING AND SEIZURE

3. **Obligation to freeze and seize.**—(1) Any person in effective control of any property of a designated entity or designated individual shall freeze or seize such property without delay.

(2) The obligation under clause (1) shall,—

- (a) commence from the date of notification of the domestic listing concerning the designated entity or designated individual; and
- (b) be performed by any person to whom the direction in this regard is made by the Authorized Agency unless such person sufficiently explains that it is not in effective control of the property.

4. **Properties to be frozen or seized.**—(1) The properties liable to be frozen or seized pursuant to the Act include:—

- (a) the properties owned or controlled, wholly or partly, directly or indirectly, by a designated entity or designated individual;
- (b) the properties owned or effectively controlled by any person acting on behalf of or at the direction of any designated entity or designated individual; and
- (c) the income, rents, profits, returns and any other increase or addition to such properties.

(2) The seizing agency shall act as the caretaker of the properties frozen or seized by it until further directions are issued by the Authorized Agency.

5. **Prohibition.**—As and when a property is frozen or seized, no further use, transfer, conversion, disposal, removal or dealing of such property shall take place except with prior written approval of the Authorized Agency.

CHAPTER III

REPORTING

6. **Responsibility of seizing agency.**—The seizing agency carrying out the freeze or seizure of a property shall—
- (a) submit a report as set out in Form-A to the Authorized Agency within forty-eight hours of the freezing or seizure; and
 - (b) attach with the report copies of any documents in its possession concerning the property that has been frozen or seized.
7. **Information to persons having interest in property.**—Within forty-eight hours of receipt of the report under Article 6, the Seizing Agency shall issue a notice of freezing or seizure of the property to the concerned designated entity or designated individual and any other person affected by the freezing or seizure of the property, as set out in Form-B.

CHAPTER IV

MODE OF FREEZE OR SEIZURE

8. **Procedure of freezing etc.**—The properties of a designated entity or designated individual shall be frozen or seized in the manner given in this chapter and, where a specific provision has not been made, in such manner so as to ensure that the property is not acquired, used, converted, transferred, concealed, removed or otherwise dealt with by any person except with prior written approval of the Authorized Agency.
9. **Deposit in Bank.**—Any money, cash, instruments and articles of value seized may be deposited for safe custody with a bank or financial institution designated by the Seizing Agency and such bank shall issue a proper receipt for the money, instruments and articles of value so deposited.
10. **Property in lockers.**—Any money or articles of value deposited with the banks or financial institutions or placed in their safe lockers shall be frozen and no further dealings or transactions shall be made with respect to such money or articles, without prior permission of the Authorized Agency.
11. **Profit.**—The seizing agency may receive any profit, interest, income, return, earning or other addition relating to the property frozen or seized by it, which shall also be subjected to freezing or seizure, as the case may be, on receipt.

12. **Rights of third parties.**—A debt or other payment obligation, or securities owed, to a designated entity or designated individual by a third party shall not be paid for the benefit of such entity or individual and the same shall be paid and dealt with in the manner set out in Articles 9 or 10 or 11.

13. **Freezing by non-banking finance companies etc.**—A corporate entity, including non-banking finance company, stock exchange, clearing house, or a depository company shall freeze and shall not transfer any share, debenture, bond, unit trust, or any other instrument of investment of a designated entity or designated individual:

Provided that any dividend, profit, return or bonus shares shall accrue but shall not be paid to the owners of such shares except with the prior written approval of the Authorized Agency.

14. **Movable property.**—The seizing agency shall not deliver possession of a movable property to the designated entity or designated individual and shall be responsible for the due custody thereof until further directions are issued by the Authorized Agency:

Provided that when the property seized is perishable or subject to speedy and natural decay, the seizing person may sell or auction it at once with permission of the Authorized Agency and submit a report about details of the sale to the Authorized Agency.

15. **Immovable property.**—An immovable property shall be frozen by way of avoiding or restraining the transfer of, or creation of an encumbrance over, such property.

CHAPTER V

EXEMPTIONS FROM ASSETS FREEZE

16. **Access to properties.**—A designated entity or designated individual may submit written application as set out in Form C to the Authorized Agency for access to such services, money or other properties frozen or seized pursuant to the Act that are necessary to make payments to meet the following expenses, which may include family subsistence depending upon size of the family, namely:—

- (a) foodstuffs;
- (b) rent or mortgage;

- (c) medicines and medical treatment;
- (d) taxes;
- (e) insurance premiums;
- (f) public utility charges;
- (g) reasonable professional fees for the provision of legal services;
- (h) fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources;
- (i) education; and
- (j) bank loans.

17. **Application for access to money or other properties.**—The application for access to money or other properties frozen pursuant to the Act shall specify the types of expenses or payments for which exemption from freezing or seizure is sought, the total amount of money or other property required for the purpose and full details to substantiate the need for such money or other property.

18. **Grant of access.**—The access to money or other properties may be granted by the Authorized Agency subject to any general or special conditions.

CHAPTER VI

MISCELLANEOUS

19. **Provision to be in addition and not in derogation.**—The provisions of this Order shall be in addition to and not in derogation of any other provisions on attachment, seizure or confiscation of properties provided in the Code of Criminal Procedure, 1898 (Act V of 1898) or any other law for the time being in force.

20. **Management of properties.**—The Authorized Agency may enter into an arrangement to manage, preserve, recover or dispose off the properties frozen or seized pursuant to the Act and issue such directions and exercise such powers as may be necessary for proper management, preservation, recovery or disposal of the properties.

Form - A
[See Article 6 (a)]
Report on Freeze or Seizure of Property
of designated entities or designated individuals

This report is submitted pursuant to Article 6 in relation to the obligation to freeze or seize properties of designated entities and designated individuals.

1. Date of Report:
2. Date of Freeze or Seizure:
3. Location of Property:
4. Nature and particulars of Property frozen or seized:
5. Estimated Value of Property (if known):
6. Whether Property requires any special treatment (give details):
7. Name(s) of designated entity(s) or designated individual(s):
8. Address(s) of designated entity(s) or designated individual(s):
10. CNIC No. of the office bearers of designated entity(s) or designated individual(s):
11. Name(s) of affected person(s):
12. Address(s) of affected person(s):
13. CNIC No. of affected person(s):
14. Name of Reporter:
15. Authorized Officer of Reporter (in case of entities or bodies):
16. Signature and stamp:

FORM-B
[See Article 7]

Date
Name of the Person
Address

NOTICE OF FREEZE AND SEIZURE OF PROPERTIES

WHEREAS pursuant to Section 2 of the United Nations (Security Council) Act, 1948 (XIV of 1948) read with Article 6 and Statutory Regulatory Order No. **** dated ****, following properties lies have been frozen and/or seized:

Property 1:

Property 2:

Property 3:

AND WHEREAS the access to the above Properties may be granted by this Office under articles 16 and 17 of the United Nations Security Council (Freezing and Seizure) Order, 2019 for due cause shown.

AND WHEREAS the details of procedure for seeking exemptions from the freeze and/or seizure of the above Properties and removal from the list of the Sanctions Committee of the United Nations Security Council is provided in the Appendix attached herewith.

NOW, THEREFORE, take notice that no use, transfer or dealing in the above Properties is allowed except in accordance with the conditions and procedures mentioned herein. Any violation thereof shall be punishable pursuant to section 2 of the United Nations (Security Council) Act, 1948 (XIV of 1948) read with Statutory Regulatory Order No. 13 (I)/2013 dated 11 January 2013.

Authorized Agency

FORM-C
[See Articles 16 and 17]

PART-A: EXEMPTIONS FROM SANCTIONS MEASURES

Exemption from Freeze or Seizure of Properties

1. A designated individual or entity may make application for exemption from the freezing provisions. The application for exemption must contain the following details.

- recipient (name and address)
- recipient's permanent reference number on the Al-Qaida or Taliban Sanctions Lists
- recipient's bank information (name and address of bank, account number)
- purpose of payment and justification of the determination of the expenses falling under paragraph 1(a) or under paragraph 1(b) of UNSC Resolution 1452 (2002):
 - under paragraph 1(a):
 - basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
 - payment of reasonable professional fees and reimbursement of incurred expenses associated with the provisions of legal services;
 - fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources under paragraph 1(b):
 - extraordinary expenses (other categories than the ones mentioned under paragraph 1 (a)),
 - amount of installment
 - number of installments
 - payment starting date
 - bank transfer or direct debit
 - interests
 - specific funds being unfrozen

— other information.

2. The application will be processed in the following manner:

2.1 Ministry of Foreign Affairs will receive the application from the individual or entity directly or through a reporting agency.

2.2 The application will be assessed to determine if the exemption, including nature of expenses, amount of instalment and number of instalments is reasonable given all the circumstances.

2.3 In case of application for basic expenses, the Ministry of Foreign Affairs, through its Permanent Mission in New York, will notify the respective UNSC Committee of the intention to grant the exemption from the asset freeze.

2.4 The respective Sanctions Committee, through the Secretariat, will immediately acknowledge receipt of the basic expense notification. Should no negative decision be taken by the Committee within the requisite 3 working day period, the Committee, through its Chair, will inform the notifying Member State thereof. The Committee will also inform the notifying Member State if a negative decision has been taken regarding the notification. The Committee, through its Chair, will inform the Member States requesting an exemption for extraordinary expenses about its decision.

2.5 Upon receipt of the decision from the relevant Sanctions Committee, Ministry of Foreign Affairs would inform the respective agency responsible for de-freezing of assets for provision of basic expenses, as approved by the relevant UNSC Sanctions Committee.

PART-B: PROCEDURES FOR DELISTING UNDER 1267/2253/2368 AI QAIDA/Da'esh SANCTIONS REGIME

3. Individuals and Entities who have been listed by Security Council's 1267/2253/2368 Sanctions regime can apply for de-listing by following the procedure mentioned below:

3.1 A petitioner seeking to submit a request for delisting can do so directly, or through a representative, by contacting the Office of the Ombudsperson. The contact particulars for the Office of the Ombudsperson are as follows:

Office of the Ombudsperson
Room DC2-2206
United Nations

New York, NY 10017
United States of America
Tel: +1 212 963 8226
E-mail: ombudsperson@un.org

4. The website¹ of the Ombudsperson sets out the procedures and requirements for making such a request. Delisting requests should contain the following information:

- explanation as to why the designation does not or no longer meets the listing criteria (through countering the reasons for listing as stated in the list entry for that particular individual or entity);
- the designee's current occupation and/or activities, and any other relevant information, such as information on assets;
- any documentation supporting the request can be referred to and/ or attached together with the explanation of its relevance, where appropriate.

5. For a deceased individual, the following information should be included:

- death certificate or similar official documentation confirming the death whenever possible;
- whether or not any legal beneficiary of the deceased's estate or any joint owner of his /her assets is on the Sanctions Lists.

6. In cases where the Ombudsperson recommends retaining a name on the ISIL (Da'esh) & Al-Qaida Sanctions List, the measures will remain in place. In cases where the Ombudsperson recommends delisting, the name will be removed from the ISIL (Da'esh) & Al-Qaida Sanctions List after a fixed time period unless (a) all fifteen members of the Committee are in favour of maintaining the listing; or (b) the matter is referred to the Security Council for a decision. These procedures are set out in more detail in resolution 2368 (2017).

¹<https://www.un.org/sc/suborg/en/ombudsperson>

Ministry of Foreign Affairs.