



The Government of the Republic of Trinidad and Tobago
Ministry of the Attorney General and Legal Affairs

THE ANTI-TERRORISM UNIT

GUIDANCE TO THE PUBLIC ON OBLIGATIONS AND RIGHTS IN RESPECT OF ANTI- TERRORISM

INTRODUCTION

This document is intended to guide members of the public in understanding their obligations and rights pursuant to the Anti-Terrorism Act, Chap. 12:07.

THE LAW

The Anti-Terrorism Act, Chap. 12:07 (“the Act”) was enacted on September 13, 2005.

The Act aims to protect all citizens of Trinidad and Tobago and the international community from the evolving threats posed by terrorist actors. These provisions also serve to fulfill the country’s international obligations relative to the United Nations Security Council and the Financial Action Task Force.

It is important to note that **there are obligations under the Act which apply to all members of the public**. The Act establishes restrictions on certain transactions with “listed entities” obligations in relation to travel to specified areas and duties on all persons to disclose information in respect of terrorist acts and/or transactions.

WHAT IS THE PURPOSE OF THE ACT?

The primary purpose of the Act is to criminalise terrorism and the financing of terrorism. In so doing, definitions of key terms are established and offences are provided for. Section 22B provides for the listing of terrorist individuals and entities. Once an individual or entity is listed, the Act places restrictions on the public at large conducting certain types of transactions with that person or entity.

WHO ARE LISTED ENTITIES?

The Act defines “*listed entity*” as an entity declared to be a listed entity in accordance with section 22B. Section 22B sets out the following circumstances under which the High Court may designate a person or entity as a listed entity:

1. Where an individual or entity is a “designated entity.” The Act defines a designated entity as an individual or entity and their associates designated as terrorist entities by the United Nations Security Council, the 1267, 1989 and 2253 Committee or the 1988 Committee;
2. an entity or individual, where there are reasonable grounds to believe that the individual or entity—
 - (i) has knowingly committed or participated in, or facilitated the commission of a terrorist act; or
 - (ii) is knowingly acting on behalf of, or at the direction of, or in association with, a designated entity, an entity referred to in paragraph sub-paragraph (i), or a listed entity;
 - (iii) has knowingly committed an indictable offence for the benefit of, or in association with—
 - (A) a terrorist;
 - (B) a terrorist organisation; or
 - (C) a listed entity; or
3. an entity owned or controlled directly or indirectly, by a listed entity.

WHY ARE LISTED ENTITIES IMPORTANT?

When the High Court grants an Order designating an individual or entity as a listed entity, it also orders that the property of the listed entity be frozen. Thereafter, the Act prohibits members of the public from certain dealings and/or transactions with listed entities and their property. [See guidance on “What does a Freezing Order Mean” below]

HOW DO I KNOW IF THERE IS A FREEZING ORDER AGAINST A PERSON OR ENTITY?

The Financial Intelligence Unit, Ministry of Finance and the Anti-Terrorism Unit, Ministry of the Attorney General and Legal Affairs both maintain comprehensive lists of listed entities which are regularly reviewed on their websites. These can be found at the following links:

- Insert links here.

The Ministry of the Attorney General also publishes on its website every order obtained from the High Court under the Act, in respect of listed entities or related persons. This includes freezing orders, amendments to such orders and revocations of such orders. Each such order is also published in the Gazette and two (2) daily newspapers within seven (7) days of the order being granted by the High Court.

HOW DO I PROPERLY IDENTIFY A PERSON OR ENTITY IN A COURT ORDER OR A LISTED ENTITY?

The freezing order of the High Court is usually prepared containing as much identification information as is available in respect of the person or entity against whom it has been made. This

often includes names; aliases; dates of birth; place of birth; past and present addresses; passport, identification or driver's licence numbers; and relationships to other listed entities or persons of interest.

Where the freezing order has been made against a "designated entity," the order will include a unique **permanent reference number** used by the United Nations Security Council to identify the listed entity. For example, in respect of the 1267 Sanctions List "QDi. 001" and for the 1988 Sanctions List "TAi.002".

Members of the public should cross-reference the freezing order with the pertinent United Nations Sanctions List, where applicable, to obtain the most up-to-date identifier information available. You can also contact the Anti-Terrorism Unit, Ministry of the Attorney General via the contact information below or the Financial Intelligence Unit if further clarification is needed.

WHAT DOES A FREEZING ORDER MEAN?

A freezing order prevents any affected property from being sold, transferred or otherwise disposed of by anyone. Money in bank accounts or accounts of a similar nature cannot be accessed unless specifically provided for by the Court. The Court may however order certain specific exceptions to cater for living expenses and other ordinary and extraordinary expenses. A listed entity against whom a freezing order has been made may contact the Anti-Terrorism Unit, Ministry of the Attorney General if such an exception is required.

WHAT PROPERTY IS COVERED BY A FREEZING ORDER?

All property of a listed entity is covered.

Section 22B of the Act provides that a Judge shall... freeze the property—

- (i) that is owned or controlled by the listed entity;
- (ii) that is wholly or jointly owned or controlled, directly or indirectly, by the listed entity; or
- (iii) derived or generated from funds or other assets owned or controlled directly or indirectly by the listed entity.

The Act defines property as follows:

“property” or “funds” means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, payment cards, payment instruments, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property, precious metals, oil and other natural resources and their refined products, modular refineries and related material and other economic resources which may be used to obtain funds, goods or services;

WHAT OTHER PROHIBITIONS APPLY?

Numerous provisions of the Act include prohibitions against dealing with listed entities; or persons or an entities acting on behalf of, or at the direction of a listed entity. These include:

- Provision of financial or other related services to listed entities;
- Collecting, providing or making available any property to listed entities;
- Provision of or solicitation of support for a listed entity;
- Provision of collection of funds for the use of listed entities;
- Acting on behalf of, at the direction of, or in association with a listed entity;
- Committing an indictable offence for the benefit of or in association with a listed entity.

Breach of these prohibitions constitute criminal offences under the Act. These prohibitions are however subject to any exceptions set out in a freezing order of the High Court.

WHAT IF I AM MISTAKEN FOR A LISTED ENTITY OR I AM AN INNOCENT THIRD-PARTY AFFECTED BY A FREEZING ORDER?

The Act allows a person affected by a freezing order to apply to the High Court for a review of the Order. This includes a person with the same or similar name to a listed entity. The Order of the High Court may also make provisions in order to protect the rights of a bona fide third party acting in good faith.

HOW CAN A LISTED ENTITY APPLY TO BE REMOVED FROM THE UN'S 1267 (1999), 1989 (2011) AND 2253 (2015) LIST OR THE 1988 LIST?

The Act provides that where an individual or entity who has been placed on either of these Lists, wishes to have his name removed from the list, he may-

- Apply to the United Nations Office of the Ombudsperson to petition for removal from the relevant list (<https://www.un.org/securitycouncil/ombudsperson>; <https://www.un.org/securitycouncil/sanctions/delisting>);or
- apply to the Attorney General to petition the Focal Point for De-Listing, for the removal of his name from the List.

Applications to the Attorney General should be made in writing to:

The Attorney General,
Ministry of the Attorney General and Legal Affairs,
Level 21 AGLA Tower,
Cor. London & Richmond Streets,
Port of Spain.

Applications should include in the subject “UNITED NATIONS SANCTIONS – DE-LISTING” and should include contact information by which you can be easily reached.

WHAT HAPPENS WHEN A FREEZING ORDER IS REVOKED OR THE UN REMOVES AN INDIVIDUAL OR ENTITY FROM THE LIST?

The Ministry of the Attorney General publishes on its website, as well as the Gazette and two daily newspapers, every order of the High Court revoking a freezing order. When an order is revoked

the funds are no longer frozen and there are no longer any restrictions on transactions involving the property of the individual or entity.

WHERE CAN I GET MORE INFORMATION?

For further information, please contact the Anti-Terrorism Unit, Ministry of the Attorney General via the following contact information:

The Anti-Terrorism Unit,
Ministry of the Attorney General and Legal Affairs,
Level 21 AGLA Tower,
Cor. London & Richmond Streets,
Port of Spain
Tel: (868) 223-AGLA (2452) ext .3800
Fax: (868) 226-5145
E-mail: antiterrorismunit@ag.gov.tt

NOTICE

This document has been prepared for information purposes only and does not relieve you of any obligation under the laws of Trinidad and Tobago. Members of the public should familiarize themselves with the Anti-Terrorism Act, Chap. 12:07 and all other relevant laws. This document is not intended as and does not constitute legal advice. Each case is unique and members of the public should seek the advice of a qualified attorney-at-law with respect to their particular case.