

L.N. 91 of 2016

**United Nations Sanctions (Yemen) Regulation 2015
(Amendment) Regulation 2016**

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Part 3A

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United Nations Sanctions (Yemen) Regulation 2015 (Amendment) Regulation 2016

(Made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council)

1. **United Nations Sanctions (Yemen) Regulation 2015 amended**
The United Nations Sanctions (Yemen) Regulation 2015 (L.N. 166 of 2015) is amended as set out in sections 2 to 14.
2. **Section 1 amended (interpretation)**
 - (1) Section 1, English text, definition of *pilot in command*—
Repeal
“without being under the direction of any other pilot in the aircraft”
Substitute
“(without being under the direction of any other pilot in the aircraft)”.
 - (2) Section 1—
 - (a) definition of *designated person*;
 - (b) definition of *economic resources*;
 - (c) definition of *funds*;
 - (d) definition of *licence*;
 - (e) definition of *relevant entity*;
 - (f) definition of *relevant person*—
Repeal the definitions.
 - (3) Section 1—

Add in alphabetical order

“*designated person* (指認人士) means—

- (a) a person specified by the Chief Executive as a designated person in accordance with section 31; or;
- (b) a person acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a designated person or designated entity in accordance with section 31;

economic resources (經濟資源) means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

funds (資金) includes—

- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (c) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts);
- (d) interest, dividends or other income on or value accruing from or generated by property;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading and bills of sale; and

- (g) documents evidencing an interest in funds or financial resources, and any other instrument of export financing;

licence (特許) means a licence granted under section 9A(1);

relevant entity (有關實體) means—

- (a) an entity specified by the Chief Executive as a relevant entity in accordance with section 30A;
- (b) an entity acting on behalf of, or at the direction of, or owned or controlled by, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 30A; or
- (c) an entity owned or controlled by a person or entity acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 30A;

relevant person (有關人士) means—

- (a) a person specified by the Chief Executive as a relevant person in accordance with section 30A; or
- (b) a person acting on behalf of, or at the direction of, a person or entity specified by the Chief Executive as a relevant person or relevant entity in accordance with section 30A;”.

3. Section 3 amended (prohibition against carriage of certain goods)

- (1) Section 3(3)(a)—

Repeal

“HKSAR,”

Substitute

“HKSAR—”.

- (2) Section 3(3)(c)—

Repeal

“HKSAR,”

Substitute

“HKSAR—”.

- (3) Section 3(3)(e)—

Repeal

“vehicle,”

Substitute

“vehicle—”.

- 4. Section 5 repealed (prohibition against making available funds, etc. or dealing with funds, etc.)**

Section 5—

Repeal the section.

- 5. Section 5A added**

The Regulation—

Add

- “5A. Prohibition against making available funds, etc. or dealing with funds, etc.**

(1) This section applies to—

- (a) a person acting in the HKSAR; and
(b) a person acting outside the HKSAR who is—

- (i) both a Hong Kong permanent resident and a Chinese national; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.
- (2) Except under the authority of a licence—
 - (a) a person must not make available, directly or indirectly, any funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person (*first-mentioned person*) must not deal with, directly or indirectly, any funds or other financial assets or economic resources belonging to, or owned or controlled by, a relevant person or a relevant entity, and if the first-mentioned person is a relevant person or a relevant entity, including any funds and other financial assets or economic resources belonging to, or owned or controlled by, the first-mentioned person.
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) that the funds or other financial assets or economic resources concerned were or were to be made available to, or for the benefit of, a relevant person or a relevant entity; or

- (b) that the person was dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, a relevant person or a relevant entity.
- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account belonging to, or owned or controlled by, a relevant person or a relevant entity with—
 - (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—

deal with (處理) means—

 - (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
 - (iii) make any other change that would enable use, including portfolio management; and
 - (b) in respect of other financial assets or economic resources, use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.”.

6. Sections 6 and 7 repealed

Sections 6 and 7—

Repeal the sections.

7. Sections 7A and 7B added

At the end of Part 2—

Add

“7A. Prohibition against entry or transit by certain persons

- (1) Subject to section 7B, a specified person must not enter or transit through the HKSAR.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) This section does not apply to a person having the right of abode or the right to land in the HKSAR.
- (4) In this section—

specified person (指明人士) means—

- (a) a person designated by the Committee for the purposes of paragraph 15 of Resolution 2140; or
- (b) a person listed in the Annex to Resolution 2216.

7B. Exceptions to prohibition against entry or transit by certain persons

Section 7A does not apply to a case in respect of which—

- (a) the Committee has determined that the relevant entry into or transit through the HKSAR is justified on the ground of humanitarian need, including religious obligation;
- (b) the relevant entry or transit is necessary for the fulfilment of a judicial process;

- (c) the Committee has determined that the relevant entry or transit would further the objectives of peace and national reconciliation in Yemen; or
- (d) the relevant entry or transit is required to advance peace and stability in Yemen.”.

8. Part 3 repealed (licence)

Part 3—

Repeal the Part.

9. Part 3A added

Before Part 4—

Add

“Part 3A

Licence

9A. Licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities

- (1) If on application the Chief Executive determines that any of the requirements in subsection (2) is met, the Chief Executive must, subject to subsection (3), grant, as appropriate, a licence for—
 - (a) making available funds or other financial assets or economic resources to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) dealing with funds or other financial assets or economic resources belonging to, or owned or

controlled by, a relevant person or a relevant entity.

- (2) The requirements are as follows—
 - (a) the funds or other financial assets or economic resources are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;
 - (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of funds or other financial assets or economic resources belonging to, or owned or controlled by, a relevant person or a relevant entity;
 - (b) the funds or other financial assets or economic resources are necessary for extraordinary expenses;
 - (c) the funds or other financial assets or economic resources—
 - (i) are the subject of a judicial, administrative or arbitral lien or judgment that was entered before 26 February 2014 and is not for the benefit of a relevant person or a relevant entity; and

- (ii) are to be used to satisfy the lien or judgment;
 - (d) the funds or other financial assets or economic resources are to be used for making payment due under a contract entered into by a person or entity before the date on which the person or entity became a relevant person or a relevant entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity.
- (3) If the Chief Executive determines that—
 - (a) the requirement in subsection (2)(a) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (ii) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification;
 - (b) the requirement in subsection (2)(b) is met, the Chief Executive—
 - (i) must cause the Committee to be notified of the determination; and
 - (ii) must not grant the licence unless the Committee approves the determination;
 - (c) the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the determination;

- (d) the requirement in subsection (2)(d) is met, the Chief Executive must cause the Committee to be notified of the determination 10 working days before granting the licence.

9B. Provision of false information or documents for purpose of obtaining licences

- (1) A person who, for the purpose of obtaining a licence, makes any statement or provides or produces any information or document that the person knows to be false in a material particular commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (2) A person who, for the purpose of obtaining a licence, recklessly makes any statement or provides or produces any information or document that is false in a material particular commits an offence and is liable—
 - (a) on conviction on indictment to a fine and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.”.

10. Section 30 repealed (specification of relevant person or relevant entity by Chief Executive)

Section 30—

Repeal the section.

11. Section 30A added

Before section 31—

Add

“30A. Specification of relevant person or relevant entity by Chief Executive

The Chief Executive may, by notice published in the Gazette, specify as a relevant person or a relevant entity (as appropriate)—

- (a) a person or an entity designated by the Committee for the purposes of paragraph 11 of Resolution 2140; or
- (b) a person listed in the Annex to Resolution 2216.”.

12. Section 31 amended (specification of designated person or designated entity by Chief Executive)

Section 31—

Repeal

everything after “designated entity”

Substitute

“(as appropriate)—

- (a) a person or an entity designated by the Committee for the purposes of paragraph 20(d) of Resolution 2216;
- (b) a person named in paragraph 14 of Resolution 2216; or
- (c) a person listed in the Annex to Resolution 2216.”.

13. Section 33 repealed (duration)

Section 33—

Repeal the section.

14. Section 34 added

At the end of Part 9—

Add

“34. Duration

Sections 5A, 7A, 7B, 9A, 9B and 30A expire at midnight on 26 February 2017.”.

C. Y. LEUNG
Chief Executive

25 May 2016

Explanatory Note

The purpose of this Regulation is to give effect to certain decisions in Resolution 2266 (2016) as adopted by the Security Council of the United Nations on 24 February 2016 by providing for the prohibition against—

- (a) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (b) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and
- (c) entry into or transit through the HKSAR by certain persons.