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Foreign Affairs Legislation Amendment (Application of Criminal Code) Regulations 2002 (No. 1)¹

Statutory Rules 2002 No. 1²

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Charter of the United Nations Act 1945* and the *Papua New Guinea (Staffing Assistance) Act 1973*.

Dated 28 FEB 2002 2002

PETER HOLLINGWORTH
Governor-General

By His Excellency's Command

ALEXANDER DOWNER
Minister for Foreign Affairs

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1 Name of Regulations

These Regulations are the *Foreign Affairs Legislation Amendment (Application of Criminal Code) Regulations 2002 (No. 1)*.

2 Commencement

These Regulations commence on gazettal.

3 Amendment of *Charter of the United Nations (Sanctions — Angola) Regulations 1994*

Schedule 1 amends the *Charter of the United Nations (Sanctions — Angola) Regulations 1994*.

2 <i>Foreign Affairs Legislation Amendment (Application of Criminal Code) Regulations 2002 (No. 1)</i>	2002, 1
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- 4 **Amendment of Charter of the United Nations
(Sanctions — Rwanda) Regulations**
Schedule 2 amends the Charter of the United Nations
(Sanctions — Rwanda) Regulations.
- 5 **Amendment of *Charter of the United Nations*
(Sanctions — Sierra Leone) Regulations 1997**
Schedule 3 amends the *Charter of the United Nations*
(Sanctions — Sierra Leone) Regulations 1997.
- 6 **Amendment of *Papua New Guinea (Staffing
Assistance) (Superannuation) Regulations 1973***
Schedule 4 amends the *Papua New Guinea (Staffing
Assistance) (Superannuation) Regulations 1973*.

Schedule 1 **Amendments of *Charter of the United Nations (Sanctions — Angola) Regulations 1994***
(regulation 3)

[1] Regulation 3

substitute

3 Prohibition on supplying mining equipment and motorised vehicles

- (1) A person in Australia, or a citizen of Australia who is outside Australia, commits an offence if:
- (a) the person supplies an item mentioned in Schedule 14AA to the *Customs (Prohibited Exports) Regulations 1958* to another person; and
 - (b) the item is to be delivered to a place in Angola.

Penalty: 50 penalty units.

- (2) Strict liability applies in paragraph (1)(a) to the circumstance that the item was mentioned in Schedule 14AA to the *Customs (Prohibited Exports) Regulations 1958*.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

[2] Regulation 4

substitute

**4 Prohibition on supplying certain goods within
Angola**

- (1) A citizen of Australia who is outside Australia commits an offence if:
- (a) the citizen supplies to a person goods specified in Schedule 2; and
 - (b) the goods are to be delivered to a place in Angola; and
 - (c) the first place in Angola at which the goods are to be delivered is not a prescribed entry point.

Penalty: 50 penalty units.

- (2) Strict liability applies in paragraph (1)(a) to the circumstance that the goods were specified in Schedule 2.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

[3] Subregulation 5 (1)

substitute

- (1) A person in Australia commits an offence if:
- (a) the person permits, or purports to permit, an aircraft to take off from, or land in, Australia; and
 - (b) the aircraft is destined to land at, or has taken off from, a place, in the territory of Angola, that has not been nominated by the Government of Angola, under subparagraph 4 (d) of Resolution 1127, to the Committee established under Resolution 864 (1993).

Penalty: 50 penalty units.

[4] Subregulation 5 (2)*omit*

does not apply to

insert

does not prohibit

[5] After subregulation 5 (2), including the penalty*insert*

- (3) An offence against this regulation is an offence of strict liability.

Note 1 For *strict liability*, see section 6.1 of the *Criminal Code*.

Note 2 A defendant bears an evidential burden in relation to the matters set out in subregulation (2) (see section 13.3 of the *Criminal Code*).

[6] Subregulation 6 (1)*omit*

, intentionally or recklessly,

[7] After subregulation 6 (1), including the penalty*insert*

- (1A) Strict liability applies:

- (a) in subparagraph (1) (c) (i), and paragraphs (1) (d) and (f), to the circumstance that the aircraft was registered under a law of Angola; and
- (b) in paragraph (1) (e) to the circumstance that the insurance claim was made after the commencement of these Regulations in relation to an aircraft registered under a law of Angola.

[8] Subregulation 6 (2)

omit

does not apply:

insert

does not prohibit:

[9] Paragraph 6 (2) (a)

omit

to provision

insert

the provision

[10] Paragraph 6 (2) (b)

omit

to provision

insert

the provision

[11] After subregulation 6 (2)

insert

Note A defendant bears an evidential burden in relation to the matters set out in subregulation (2) (see section 13.3 of the *Criminal Code*).

[12] Subregulation 7 (2)

omit

, intentionally or recklessly,

[13] After subregulation 7 (2), including the penalty*insert***(3) Strict liability applies:**

- (a) in paragraph (2) (a) to the circumstance that the matter was proscribed by paragraph 6 (1) (a), (b) or (c); and
- (b) in paragraph (2) (b) to the circumstance that the goods were mentioned in Schedule 2; and
- (c) in paragraph (2) (c) to the circumstances:
 - (i) that the item was mentioned in Schedule 14AA to the *Customs (Prohibited Exports) Regulations 1958*; and
 - (ii) that the place in Angola was mentioned in Schedule 3.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

**Schedule 2 Amendments of Charter of the
United Nations (Sanctions —
Rwanda) Regulations**
(regulation 4)

[1] Regulation 1

substitute

1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions — Rwanda) Regulations 1994*.

[2] Regulation 4

substitute

**4 Prohibition on supplying certain goods to
Rwanda**

- (1) A citizen of Australia who is outside Australia must not supply goods specified in the Schedule to:
- (a) a person or body in Rwanda; or
 - (b) a person or body for the purpose of a business carried on in, or operated from, Rwanda.

Penalty: 50 penalty units.

- (2) The owner, the master and the operator of a registered ship must not allow the ship to be used to supply goods specified in the Schedule to:
- (a) a person or body in Rwanda; or
 - (b) a person or body for the purpose of a business carried on in, or operated from, Rwanda.

Penalty: 50 penalty units.

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- (3) The owner, the pilot in command and the operator of a registered aircraft must not allow the aircraft to be used to supply goods specified in the Schedule to:
- (a) a person or body in Rwanda; or
 - (b) a person or body for the purpose of a business carried on in, or operated from, Rwanda.

Penalty: 50 penalty units.

- (4) It is a defence to a prosecution against subregulation (1), (2) or (3) if the goods are supplied for the purpose of aiding the activities of the United Nations Assistance Mission for Rwanda or the United Nations Observer Mission in Uganda-Rwanda.
- (5) Strict liability applies in subregulations (1), (2) and (3) to the circumstance that the goods were specified in the Schedule.

Note 1 For *strict liability*, see section 6.1 of the *Criminal Code*.

Note 2 A defendant bears an evidential burden in relation to the question whether he or she supplied the goods for the purpose of aiding the activities of the United Nations Assistance Mission for Rwanda or the United Nations Observer Mission in Uganda-Rwanda (see section 13.3 of the *Criminal Code*).

Schedule 3 **Amendments of *Charter of the United Nations (Sanctions — Sierra Leone) Regulations 1997***

(regulation 5)

[1] Subregulation 4 (1)

substitute

- (1) A person in Australia, or a citizen of Australia who is outside Australia, must not enter into, or continue to engage in, a commercial transaction to sell or supply, for delivery to a place in Sierra Leone, an item mentioned in subregulation (2).

Penalty: 50 penalty units.

- (1A) Strict liability applies in subregulation (1) to the circumstance that the item was mentioned in subregulation (2).

- (1B) It is a defence to a prosecution against subregulation (1) if:

- (a) the item was sold or supplied to the Government of Sierra Leone and was to be delivered through a point of entry stated in Schedule 1; or
- (b) the item was sold or supplied for the sole use in Sierra Leone of:
- (i) the Military Observer Group of ECOWAS; or
 - (ii) the United Nations.

Note 1 For *strict liability*, see section 6.1 of the *Criminal Code*.

Note 2 A defendant bears an evidential burden in relation to the matters set out in subregulation (1B) (see section 13.3 of the *Criminal Code*).

[2] Regulation 5*substitute***5 Restriction on use of Australian aircraft and ships**

- (1) The owner, pilot in command or operator of an aircraft registered in Australia under the *Civil Aviation Act 1988* must not allow the aircraft to be used in relation to a matter proscribed by regulation 4.

Penalty: 50 penalty units.

- (2) The owner, master or operator of a ship registered in Australia under the *Shipping Registration Act 1981* must not allow the ship to be used in relation to a matter proscribed by regulation 4.

Penalty: 50 penalty units.

- (3) Strict liability applies:

- (a) in subregulation (1) to the circumstances that:

- (i) registration of the aircraft was under the *Civil Aviation Act 1988*; and
(ii) the matter was proscribed by regulation (4); and

- (b) in subregulation (2) to the circumstances that:

- (i) registration of the ship was under the *Shipping Registration Act 1981*; and
(ii) the matter was proscribed by regulation (4).

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) This regulation has extra-territorial operation, according to its terms.

[3] Subregulation 6 (1), at the foot*insert*

Penalty: 50 penalty units.

[4] Subregulation 6 (2), penalty

omit

[5] After subregulation 6 (2)

insert

- (3) An offence against this regulation is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

**Schedule 4 Amendment of Papua New
Guinea (Staffing Assistance)
(Superannuation) Regulations
1973**

(regulation 6)

[1] Regulation 112

substitute

112 Board may require returns

- (1) The Board may, at any time, require a contributor or pensioner to supply in a statutory declaration or such other form as is required or permitted by the Board such information as the Board deems necessary for the purpose of any investigation for the purposes of this regulation.
- (2) A contributor or pensioner must supply the information required under this regulation.

Penalty: 1 penalty unit.
- (3) It is a defence to a prosecution against subregulation (2) if the defendant proves that he or she had a reasonable excuse for failing to supply the required information.
- (4) Strict liability applies in subregulation (2) to the circumstance that the information was required under this regulation.

Note 1 For *strict liability*, see section 6.1 of the *Criminal Code*.

Note 2 A defendant bears an evidential burden in relation to the question whether he or she has a reasonable excuse (see section 13.3 of the *Criminal Code*).

Notes

1. These Regulations amend (in Schedule 1) Statutory Rules 1994 No. 156, as amended by 1997 No. 392; 1999 No. 207.

These Regulations also amend (in Schedule 2) Statutory Rules 1994 No. 310.

These Regulations also amend (in Schedule 3) Statutory Rules 1997 No. 393, as amended by 1998 No. 123; 1999 No. 208.

These Regulations also amend (in Schedule 4) Statutory Rules 1973 No. 239, as amended by 1974 Nos. 128 and 156; 1975 Nos. 134 and 179; 1976 Nos. 74, 138 and 183; 1977 Nos. 65, 145 and 218; 1978 Nos. 92 and 155; 1981 No. 387; Act No. 93, 1986; Statutory Rules 1987 No. 63; Act No. 125, 1989; Statutory Rules 2001 No. 309.

2. Notified in the *Commonwealth of Australia Gazette* on 7 2002.

7 March