

Charter of the United Nations (Sanctions—ISIL (Da’esh) and Al‑Qaida) Regulations 2008

Select Legislative Instrument No. 41, 2008

made under the

Charter of the United Nations Act 1945

**Compilation No. 5**

**Compilation date:** 24 August 2021

**Includes amendments up to:** F2021L01175

**Registered:** 13 September 2021

**About this compilation**

**This compilation**

This is a compilation of the *Charter of the United Nations (Sanctions—ISIL (Da’esh) and Al-Qaida) Regulations 2008* that shows the text of the law as amended and in force on 24 August 2021 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name of Regulations

 These Regulations are the *Charter of the United Nations (Sanctions—**ISIL (Da’esh) and Al‑Qaida) Regulations 2008*.

4 Definitions

 In these Regulations:

***Act*** means the *Charter of the United Nations Act 1945*.

***arms or related matériel*** includes:

 (a) weapons; and

 (b) ammunition; and

 (c) military vehicles and equipment; and

 (d) spare parts for the things mentioned in paragraphs (a) to (c); and

 (e) paramilitary equipment.

***Australian aircraft*** has the same meaning as in the *Criminal Code*.

***Australian ship*** has the same meaning as in the *Criminal Code*.

***Committee*** means the Committee established under paragraph 6 of Resolution 1267.

***controlled asset*** means:

 (a) an asset of a designated person or entity; or

 (b) funds derived from an asset owned or controlled, directly or indirectly, by:

 (i) a designated person or entity; or

 (ii) a person acting on behalf of or at the direction of a designated person or entity.

***designated person or entity*** means:

 (a) Al‑Qaida; or

 (b) the Islamic State in Iraq and the Levant (ISIL, also known as Da’esh); or

 (c) a person or entity designated in the ISIL (Da’esh) & Al‑Qaida Sanctions List maintained by the Committee, as existing from time to time.

Note: The ISIL (Da’esh) & Al‑Qaida Sanctions List could in 2021 be viewed on the United Nations’ website (http://www.un.org).

***export sanctioned goods*** has the meaning given by regulation 5.

***paramilitary equipment*** means any of the following:

 (a) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes;

 (b) body armour, including:

 (i) bullet‑resistant apparel; and

 (ii) bullet‑resistant pads; and

 (iii) protective helmets;

 (c) handcuffs, leg‑irons and other devices used for restraining prisoners;

 (d) riot protection shields;

 (e) whips;

 (f) parts and accessories designed or adapted for use in, or with, equipment mentioned in paragraphs (a) to (e).

***Resolution 1267*** means Resolution 1267 (1999) of the Security Council, adopted on 15 October 1999.

***sanctioned service*** has the meaning given by regulation 7.

***sanctioned supply*** has the meaning given by regulation 6.

***Security Council*** means the Security Council of the United Nations.

***working day*** means a day that is not a Saturday, a Sunday or a public holiday.

Note: In these Regulations:

(a) the ***Minister*** is the Minister for Foreign Affairs; and

(b) ***asset*** has the meaning given by section 2 of the Act.

5 Export sanctioned goods

 For these Regulations, ***export sanctioned goods*** means arms or related matériel.

6 Sanctioned supply

 For these Regulations, a person makes a ***sanctioned supply*** if:

 (a) the person supplies, sells or transfers goods to another person; and

 (b) the goods are export sanctioned goods; and

 (c) as a direct or indirect result of the supply, sale or transfer the goods are transferred to a designated person or entity.

7 Sanctioned service

 For these Regulations, ***sanctioned service*** means the provision of technical advice, assistance or training related to military activities to a designated person or entity.

Part 2—UN sanction enforcement laws

8 Prohibitions relating to a sanctioned supply

 (1) A person contravenes this regulation if the person makes a sanctioned supply.

 (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note: This has the effect that the offence has extraterritorial operation.

 (3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if the person uses the services of an Australian ship or an Australian aircraft to transport export sanctioned goods in the course of, or for the purpose of, making a sanctioned supply.

 (4) A body corporate contravenes this regulation if:

 (a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and

 (b) the other body corporate or entity makes a sanctioned supply.

Note: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

9 Prohibitions relating to sanctioned services

 (1) A person contravenes this regulation if the person provides a sanctioned service.

 (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note: This has the effect that the offence has extraterritorial operation.

 (3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if the person uses the services of an Australian ship or an Australian aircraft in the course of, or for the purpose of, providing a sanctioned service.

 (4) A body corporate contravenes this regulation if:

 (a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and

 (b) the other body corporate or entity provides a sanctioned service.

Note: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

10 Prohibition relating to dealings with designated persons or entities

 (1) A person contravenes this regulation if:

 (a) the person directly or indirectly makes an asset available to, or for the benefit of, a designated person or entity; and

 (b) the making available of the asset is not authorised by a permit under regulation 12.

 (1A) Strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under regulation 12.

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

 (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note 1: Subregulation (2) has the effect that the offence has extraterritorial operation.

Note 2: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

11 Prohibition relating to controlled assets

 (1) A person contravenes this regulation if:

 (a) the person holds a controlled asset; and

 (b) the person:

 (i) uses or deals with the asset; or

 (ii) allows the asset to be used or dealt with; or

 (iii) facilitates the use of the asset or dealing with the asset; and

 (c) the use or dealing is not authorised by a permit under regulation 12.

 (1A) Strict liability applies to the circumstance that the use of or dealing with the asset is not authorised by a permit under regulation 12.

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

 (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note 1: Subregulation (2) has the effect that the offence has extraterritorial operation.

Note 2: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

12 Permit for assets and controlled assets

 (1) The Minister may, on application, grant a person a permit authorising:

 (a) the making available of an asset to a person or entity that would otherwise contravene subregulation 10(1); or

 (b) a use of, or dealing with, a controlled asset that would otherwise contravene subregulation 11(1).

Note: Section 13A of the Act applies to a permit granted by the Minister under this subregulation.

 (2) An application must be for a basic expense dealing, a contractual dealing or an extraordinary expense dealing mentioned in regulation 5 of the *Charter of the United Nations (Dealings with Assets) Regulations 2008*.

 (3) An application must specify which kind of dealing mentioned in subregulation (2) the application is for.

 (4) If the application is for a basic expense dealing, the Minister:

 (a) must notify the Committee of the application; and

 (b) may grant a permit only if 3 working days have passed since the notice was given, and the Committee has not advised against granting a permit to the applicant.

 (5) If the application is for an extraordinary expense dealing, the Minister:

 (a) must notify the Committee of the application; and

 (b) may grant a permit only with the approval of the Committee.

 (6) A permit is subject to any conditions specified in the permit.

Note: Part 2 of the *Charter of the United Nations (Dealings with Assets) Regulations 2008* applies to these Regulations.

Part 3—Miscellaneous

13 Delegations by Minister

 (1) The Minister may delegate the Minister’s powers and functions under these Regulations (other than this power of delegation) to:

 (a) the Secretary of the Department; or

 (b) an SES employee, or acting SES employee, in the Department.

 (2) The delegation must be in writing.

 (3) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) |
| C[x] = Compilation No. x | /sub‑subparagraph(s) |
| Ch = Chapter(s) | pres = present |
| def = definition(s) | prev = previous |
| Dict = Dictionary | (prev…) = previously |
| disallowed = disallowed by Parliament | Pt = Part(s) |
| Div = Division(s) | r = regulation(s)/rule(s) |
| ed = editorial change | reloc = relocated |
| exp = expires/expired or ceases/ceased to have | renum = renumbered |
| effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = *Legislation Act 2003* | Sch = Schedule(s) |
| LIA = *Legislative Instruments Act 2003* | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given | SLI = Select Legislative Instrument |
| effect | SR = Statutory Rules |
| (md not incorp) = misdescribed amendment | Sub‑Ch = Sub‑Chapter(s) |
| cannot be given effect | SubPt = Subpart(s) |
| mod = modified/modification | underlining = whole or part not |
| No. = Number(s) | commenced or to be commenced |

Endnote 3—Legislation history

| Number and year | FRLI registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| 2008 No 41 | 11 Apr 2008 (F2008L01023) | 12 Apr 2008 |  |
| 2009 No 6 | 9 Feb 2009 (F2009L00282) | 10 Feb 2009 | — |
| 2009 No 113 | 22 June 2009 (F2009L02396) | 23 June 2009 | — |
| 2011 No 65 | 17 May 2011 (F2011L00788) | 18 May 2011 | — |
| 72, 2013 | 17 May 2013 (F2013L00791) | Sch 1: 18 May 2013 (s 2) | — |

| Name | Registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| Charter of the United Nations Legislation Amendment (2021 Measures No. 1) Regulations 2021 | 23 Aug 2021 (F2021L01175) | Sch 1 (items 23–25): 24 Aug 2021 (s 2(1) item 1) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| **Part 1** |  |
| r 1  | rs 2009 No 6; No 72, 2013 |
|  | am F2021L01175 |
| r 2  | rep LA s 48D |
| r 3  | rep LA s 48C |
| r 4  | am 2009 No 113; No 72, 2013; F2021L01175 |
| r 6  | am No 72, 2013 |
| r 7  | am 2009 No 6 |
| **Part 2** |  |
| r 10  | am No 72, 2013 |
| r 11  | am 2009 No 6; No 72, 2013 |
| r 12  | am 2009 No 113; No 72, 2013 |
| **Part 3** |  |
| Part 3  | ad 2011 No 65 |
| r 13  | ad 2011 No 65 |