



# Charter of the United Nations (Sanctions — Afghanistan) Regulations 2008<sup>1</sup>

## Select Legislative Instrument 2008 No. 41

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I, PHILIP MICHAEL JEFFERY, 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*.

Dated 10 April 2008

P. M. JEFFERY  
Governor-General

By His Excellency's Command

STEPHEN SMITH  
Minister for Foreign Affairs

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## Part 1 Preliminary

### 1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions — Afghanistan) Regulations 2008*.

### 2 Commencement

These Regulations commence on the day after they are registered.

### 3 Repeal

The *Charter of the United Nations (Sanctions — Afghanistan) Regulations 2001* are repealed.

### 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

**Regulation 4**

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- (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 each of the following:

- (a) Al-Qaida;
- (b) Usama bin Laden;
- (c) the Taliban;
- (d) a person or entity designated by the Committee or by the Security Council for paragraph 1 of Resolution 1735.

***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.

***Resolution 1390*** means Resolution 1390 (2002) of the Security Council, adopted on 16 January 2002.

***Resolution 1735*** means Resolution 1735 (2006) of the Security Council, adopted on 22 December 2006.

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

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

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

*Note* In these Regulations:

- (a) the **Minister** is the Minister for Foreign Affairs; and
- (b) **asset** has the meaning given in section 2 of the Act.

**5 Export sanctioned goods**

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

**6 Sanctioned supply**

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 to Afghanistan of technical advice, assistance or training related to military activities to a designated person or entity.

**Regulation 8**

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**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.

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- (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.
- (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 deal with the asset; or

**Regulation 12**

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- (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.

- (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.

*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 48 hours have passed since the notice was given, and the Committee has not advised against granting a permit to the applicant.



**Regulation 12**

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- (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.

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.