



Charter of the United Nations (Sanctions — Lebanon) Regulations 2008¹

Select Legislative Instrument 2008 No. 46

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 — Lebanon) Regulations 2008*.

2 Commencement

These Regulations commence on the day after they are registered.

Regulation 4

3 Repeal

The *Charter of the United Nations (Sanctions — Lebanon) Regulations 2006* are repealed.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 and accessories for the things mentioned in paragraphs (a) to (c); and
- (e) paramilitary equipment.

Committee means the Committee established under paragraph 3 (b) of Resolution 1636.

controlled asset means an asset that is owned or controlled by:

- (a) a designated person; or
- (b) a person acting on behalf of or at the direction of a designated person; or
- (c) an entity owned or controlled by a designated person.

designated person means an individual designated by the Committee for paragraph 3 (a) of Resolution 1636.

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;

Regulation 5

- (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 1636 means Resolution 1636 (2005) of the Security Council of the United Nations, adopted on 31 October 2005.

Resolution 1701 means Resolution 1701 (2006) of the Security Council of the United Nations, adopted on 11 August 2006.

UNIFIL means the United Nations Interim Force in Lebanon as authorised in paragraph 11 of Resolution 1701.

sanctioned service has the meaning given by regulation 7.

sanctioned supply has the meaning given by regulation 6.

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 Lebanon.

7 Sanctioned service

For these Regulations, **sanctioned service** means the provision, to any person or entity in Lebanon, of any technical training or assistance related to the provision, manufacture or use of export sanctioned goods.

Part 2 UN sanction enforcement laws

8 Prohibitions relating to a sanctioned supply

- (1) A person contravenes this regulation if:
 - (a) the person makes a sanctioned supply; and
 - (b) the sanctioned supply is not an authorised 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 that is not an authorised 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; and
 - (c) the sanctioned supply is not an authorised supply.
- (5) For this regulation:

authorised supply means a sanctioned supply that is authorised by:

 - (a) a permit under regulation 9; or
 - (b) if the supply, sale or transfer takes place in or from a foreign country — a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1701.

Regulation 9

- (6) A defendant, to a charge under section 27 of the Act that relates to subregulation (1), (3) or (4), bears an evidential burden in relation to the matter in subparagraph (b) (i) of the definition of authorised supply in subregulation (5).
- (7) For paragraph (b) of the definition of authorised supply in subregulation (5), a permit is taken not to have been properly granted if the prosecution shows that the permit was granted on the basis of false or misleading information provided by any person, or of corrupt conduct by any person.

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 Permit to make a sanctioned supply

- (1) The Minister may, on application, grant a person a permit authorising the making of a sanctioned supply.

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

- (2) The Minister may grant a permit only if the sanctioned supply is authorised by:
- (a) the Government of Lebanon; or
 - (b) UNIFIL.
- (3) A permit is subject to any conditions specified in the permit.

10 Prohibitions relating to sanctioned services

- (1) A person contravenes this regulation if:
- (a) the person provides a sanctioned service; and
 - (b) it is not an authorised service; and
 - (c) it is not provided in relation to an authorised 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.

Regulation 10

- (3) 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; and
 - (c) the sanctioned service is not an authorised service; and
 - (d) the sanctioned service is not provided in relation to an authorised supply.
- (4) For this regulation:
- authorised service** means a sanctioned service that is authorised by:
- (a) a permit under regulation 11; or
 - (b) if the service is provided in a foreign country — a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the country's obligations under Resolution 1701.
- authorised supply** means a sanctioned supply that is authorised by:
- (a) a permit under regulation 9; or
 - (b) if the supply, sale or transfer takes place in or from a foreign country — a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with its obligations under Resolution 1701.
- (5) A defendant, to a charge under section 27 of the Act relating to subregulation (1) or (3), bears an evidential burden in relation to:
- (a) the matter in paragraph (b) (i) of the definition of authorised service in subregulation (4); and
 - (b) the matter in paragraph (b) (i) of the definition of authorised supply in subregulation (4).

Regulation 11

- (6) For paragraph (b) of the definitions of authorised service and authorised supply in subregulation (4), a permit is taken not to have been properly granted if the prosecution shows that the permit was granted on the basis of false or misleading information provided by any person, or of corrupt conduct by any person.

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*.

11 Permit to provide a sanctioned service

- (1) The Minister may, on application, grant a person a permit authorising the provision of a sanctioned service.

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

- (2) The Minister may grant a permit only if the sanctioned service is authorised by:
- (a) the Government of Lebanon; or
 - (b) UNIFIL.
- (3) A permit is subject to any conditions specified in the permit.

12 Prohibition relating to dealings with designated person or entities

- (1) A person contravenes this regulation if the person directly or indirectly makes an asset available to, or for the benefit of:
- (a) a designated person; or
 - (b) a person or entity acting on behalf of or at the direction of a designated person; or
 - (c) an entity owned or controlled by a designated person.
- (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*.

Regulation 13

13 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
 - (ii) allows the asset to be used or dealt with; or
 - (iii) facilitates the use of the asset or the dealing with the asset.
- (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*.

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>.