

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 113

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Amendment Regulations 2009 (No. 1)

The purpose of the Regulations is to update the *Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Regulations 2008* (the Principal Regulations) in order to bring them into conformity with decisions of the United Nations Security Council (UNSC).

Section 6 of the *Charter of the United Nations Act 1945* (the Act) provides that the Governor-General may make regulations for, and in relation to, giving effect to decisions that the United Nations Security Council has made under Chapter VII of the Charter of the United Nations which Article 25 of the Charter requires Australia to carry out, in so far as those decisions require Australia to apply measures not involving the use of armed force.

The Principal Regulations currently implement Australia's obligations under UNSC Resolutions 1735 (2006), 1390 (2002) and 1267 (1999) to, inter alia, freeze the funds and other financial assets owned or controlled by, and prevent funds and other financial assets being made available to, Al-Qaida, the Taliban and Usama bin Laden and other individuals, groups, undertakings and entities associated with them.

Paragraph 1(a) of UNSC Resolution 1452 (2002) provides that these measures do not apply to funds and other financial assets or economic resources that have been determined by a State to be necessary for basic expenses. A basic expense could include payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and the payment of public utility charges. Approval as a basic expense requires notification by the States to the Committee established pursuant to UNSC Resolution 1267 (the Committee) of the intention to authorise, where appropriate, access to such funds, assets or resources and in the absence of a negative decision by the Committee within 48 hours of such notification.

However, paragraph 15 of UNSC Resolution 1735 (2006) extended the 48 hour time period referred to in paragraph 1(a) of UNSC Resolution 1452 (2002) to 3 working days. Prior to their amendment by the Regulations, the Principal Regulations referred to the original 48 hour time period.

The Regulations amend the Principal Regulations to change from 48 hours to 3 working days the time period that must have passed after the Minister for Foreign Affairs notifies the Committee of an application for a basic expense dealing before the Minister may grant a basic expense permit. The Regulations also amend the Principal Regulations to define a 'working day' as 'a day that is not a Saturday, a Sunday or a Public Holiday'.

Details of the Regulations are set out in the [Annex](#).

Annex

Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Amendment Regulations 2009 (No. 1)

Details of the proposed Regulations are as follows:-

Regulation 1 states that the name of the proposed Regulations is the *Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Amendment Regulations 2009 (No. 1)*.

Regulation 2 provides that the Regulations commence on the day after they are registered.

Regulation 3 provides that Schedule 1 would amend the *Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Regulations 2008*.

Schedule 1 Amendments to the Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Regulations 2008

Item 1 amends regulation 4 by inserting a definition of ‘working day’ as ‘a day that is not a Saturday, a Sunday or a Public Holiday’.

Item 2 amends subregulation 12(4)(b) by omitting ‘48 hours’ and inserting ‘3 working days’ which reflects the extended period for consideration of basic expense notifications by the Committee established under Resolution 1267. The extension of this period is required by United Nations Security Council Resolution 1735 (2006).