



Charter of the United Nations (Sanctions — Iran) Amendment Regulations 2010 (No. 1)¹

Select Legislative Instrument 2010 No. 228

I, MARIE BASHIR, Administrator 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 19 July 2010

MARIE BASHIR
Administrator

By Her Excellency's Command

STEPHEN SMITH
Minister for Foreign Affairs

1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions — Iran) Amendment Regulations 2010 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Charter of the United Nations (Sanctions — Iran) Regulations 2008*

Schedule 1 amends the *Charter of the United Nations (Sanctions — Iran) Regulations 2008*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 4, after definition of *Act*

insert

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.

[2] Regulation 4, after definition of *Australian ship*

insert

bunkering service, for a vessel, includes:

- (a) the provision of fuel to the vessel; and

-
- (b) the provision of supplies to the vessel; and
 - (c) other servicing of the vessel.

[3] Regulation 4, after definition of *import sanctioned goods*

insert

Iranian vessel means a vessel that is:

- (a) registered in Iran; or
- (b) Iranian owned or contracted, including by charter.

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).

[4] Regulation 4, after definition of *permissible goods*

insert

prohibition notice has the meaning given by subregulation 5A (2).

[5] Regulation 4, after definition of *Resolution 1737*

insert

Resolution 1747 means Resolution 1747 (2007) of the Security Council, adopted on 24 March 2007.

Resolution 1803 means Resolution 1803 (2008) of the Security Council, adopted on 3 March 2008.

Resolution 1929 means Resolution 1929 (2010) of the Security Council, adopted on 9 June 2010.

[6] Subregulation 5 (1)

substitute

- (1) For these Regulations, the following are **export sanctioned goods**:
- (a) goods mentioned in INFCIRC/254/Rev.9/Part 1, INFCIRC/254/Rev.7/Part 2 or Security Council document S/2010/263;
 - (b) goods that have been determined by the Security Council or the Committee for paragraph 3 (d) of Resolution 1737 or paragraph 8 of Resolution 1929;
 - (c) arms and related matériel described in the annex to the United Nations General Assembly Resolution A/RES/46/36 L dated 6 December 1991 (for the purpose of the United Nations Register of Conventional Arms);
 - (d) goods specified in a determination under this regulation;
 - (e) goods that are, or are capable of being, key components, or a subassembly, of goods mentioned in paragraph (d).

[7] After subregulation 5 (2)

insert

- (3) In paragraph (1) (e), goods are key components, or a subassembly, of other goods if they:
- (a) are an integral part of the other goods; and
 - (b) are not goods of a kind that are used extensively for ordinary purposes.

Example for paragraph (b)

Nuts and bolts are goods of a kind that are used extensively for ordinary purposes.

[8] After regulation 5

insert

5A Prohibition notices

- (1) The Minister may prohibit a person from supplying, selling or transferring goods if:
- (a) the goods are not export sanctioned goods; and
 - (b) the Minister is satisfied on reasonable grounds that, if the goods were supplied, sold or transferred, the goods could:
 - (i) directly or indirectly, be supplied to Iran, or be supplied for the use in or benefit of Iran; or
 - (ii) be incorporated into goods that could be supplied to Iran, or be supplied for the use in or benefit of Iran; and
 - (c) the Minister is satisfied on reasonable grounds that the goods could, if supplied to Iran, or if supplied for the use in or benefit of Iran, contribute to:
 - (i) enrichment-related, reprocessing or heavy water-related activities; or
 - (ii) the development of nuclear weapon delivery systems; or
 - (iii) the pursuit of activities about which the International Atomic Energy Agency has expressed concern or identified as outstanding.
- (2) If the Minister prohibits a person from supplying, selling or transferring goods under subregulation (1):
- (a) the Minister must give the person written notice of the prohibition (a ***prohibition notice***); and
 - (b) the prohibition notice must specify the goods that the person is prohibited from supplying, selling or transferring.
- (3) If:
- (a) the Minister gave a person a prohibition notice under subregulation (2); and

- (b) the Minister is satisfied on reasonable grounds that the prohibition is no longer necessary;
the Minister may revoke the prohibition notice by giving the person written notice of the revocation.

[9] Regulation 6

substitute

6 Import sanctioned goods

For these Regulations, the following, whether or not they originate in Iran, are *import sanctioned goods*:

- (a) goods mentioned in INFCIRC/254/Rev.9/Part 1, INFCIRC/254/Rev.7/Part 2 or Security Council document S/2010/263;
- (b) arms and related materiel.

[10] Regulation 9

substitute

9 Permissible goods

For these Regulations, the following are *permissible goods*:

- (a) goods mentioned in B.1 of INFCIRC/254/Rev.9/Part 1 — provided that the goods are for light water reactors;
- (b) low-enriched uranium mentioned in A.1.2 of INFCIRC/254/Rev.9/Part 1 — provided that the low-enriched uranium is incorporated in assembled nuclear fuel elements for light water reactors;
- (c) goods mentioned in the Annex to INFCIRC/254/Rev.7/Part 2 — provided that the goods are:
- (i) for exclusive use in light water reactors; and
 - (ii) necessary for technical cooperation provided to Iran by the International Atomic Energy Agency or under the Agency's auspices as mentioned in paragraph 16 of Resolution 1737.

[11] Subregulation 11 (2)

omit

mentioned in paragraph 9 (a), (b) or (c)

[12] Paragraph 11 (2) (a)

substitute

- (a) the requirements of the guidelines in INFCIRC/254/Rev.9/Part 1, INFCIRC/254/Rev.7/Part 2 and Security Council document S/2006/985 have been met; and

[13] Paragraph 11 (2) (e)

substitute

- (e) for goods mentioned in sections 3 to 6 of the Annex to INFCIRC/254/Rev.7/Part 2 — the Minister has notified the Committee of the supply in advance.

[14] Subregulation 11 (2A)

omit

[15] Paragraph 11 (4) (b)

substitute

- (b) for goods mentioned in INFCIRC/254/Rev.9/Part 1 or INFCIRC/254/Rev.7/Part 2 — the International Atomic Energy Agency.

[16] After regulation 11

insert

11A Contravention of a prohibition notice

- (1) A person contravenes this regulation if:
- (a) the Minister has given the person a prohibition notice under regulation 5A; and

- (b) the person supplies, sells or transfers goods that are the subject of the prohibition notice; and
- (c) the prohibition notice has not been revoked.

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

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

- (3) A body corporate contravenes this regulation if:
 - (a) the body corporate has effective control over the actions of another body corporate or entity (the *person*), wherever incorporated or situated; and
 - (b) the person supplies, sells or transfers goods that are the subject of a prohibition notice given to the person under regulation 5A; and
 - (c) the prohibition notice has not been revoked.

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*.

[17] Subregulation 14 (2)

omit

Security Council documents S/2006/814 and S/2006/985

insert

INFCIRC/254/Rev.9/Part 1, INFCIRC/254/Rev.7/Part 2 and Security Council document S/2006/985

[18] After regulation 17

insert

17A Prohibition relating to selling or making available an interest in sensitive commercial activities

- (1) A person contravenes this regulation if the person sells, or otherwise makes available, an interest in a sensitive commercial activity to:
- (a) Iran; or
 - (b) an Iranian national; or
 - (c) an entity incorporated in Iran or subject to Iranian jurisdiction; or
 - (d) a person or entity acting on behalf of, or at the discretion of, Iran, an Iranian national, or an entity incorporated in Iran or subject to Iranian jurisdiction; or
 - (e) an entity owned or controlled by Iran, an Iranian national, or an entity incorporated in Iran or subject to Iranian jurisdiction.
- (2) For this regulation:
- sensitive commercial activity* means a commercial activity involving:
- (a) uranium mining; or
 - (b) uranium production; or
 - (c) the use of nuclear materials or technology listed in INFCIRC/254/Rev.9/Part 1, including:
 - (i) uranium-enrichment and reprocessing activities; or
 - (ii) all heavy-water activities; or
 - (iii) the development of technology related to ballistic missiles capable of delivering nuclear weapons.

17B Prohibition relating to transferring technology or technical assistance about ballistic missiles

A person contravenes this regulation if:

- (a) the person transfers technology, or provides technical assistance, to Iran; and

- (b) the technology or assistance is for, or in relation to, an activity related to the development or use of ballistic missiles capable of delivering nuclear weapons, including launches using ballistic missile technology.

17C Prohibition relating to bunkering service

- (1) A person contravenes this regulation if the person provides a bunkering service to an Iranian vessel and:
 - (a) the service is provided either:
 - (i) from Australia; or
 - (ii) by an Australian national, whether or not the service is provided within Australia; and
 - (b) the service is not authorised in accordance with regulation 17D.
- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of this regulation.

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

17D Permit to provide a bunkering service

- (1) The Minister may, on application, grant a person a permit authorising the provision of a bunkering service to an Iranian vessel.
- (2) The Minister must not grant the permit if the Minister has reasonable grounds to believe that the vessel is carrying export sanctioned goods unless:
 - (a) the supply of the service is necessary for humanitarian purposes; or
 - (b) the export sanctioned goods have been inspected and, if necessary, seized and disposed of.
- (3) A permit is subject to any conditions specified in the permit.

17E Prohibition relating to conduct of unauthorised business with specified entity

- (1) This regulation applies to a person who is:
 - (a) an Australian national; or
 - (b) subject to Australian jurisdiction; or
 - (c) an entity incorporated in Australia; or
 - (d) an entity subject to Australian jurisdiction.
- (2) A person contravenes this regulation if:
 - (a) the person conducts business with:
 - (i) an entity specified by the Minister in a legislative instrument for this subparagraph (a *specified entity*); or
 - (ii) an individual or entity acting on behalf of, or under the direction of, the specified entity; or
 - (iii) an entity owned or controlled, whether or not by illicit means, by the specified entity; and
 - (b) the business is not authorised in accordance with regulation 17F.
- (3) The Minister must specify an entity for subparagraph (2) (a) (i) if the Minister has reasonable grounds to believe that:
 - (a) the entity is incorporated in Iran or subject to Iranian jurisdiction; and
 - (b) unauthorised business with the entity may contribute to:
 - (i) Iran's proliferation-sensitive nuclear activities; or
 - (ii) the development of nuclear weapon delivery systems; or
 - (iii) a violation of Resolution 1737, Resolution 1747, Resolution 1803 or Resolution 1929.

17F Permit to conduct business with specified entity

- (1) The Minister may, on application, grant a person a permit authorising the conduct of business with an individual or entity mentioned in paragraph 17E (2) (a).

- (2) The Minister must not grant the permit if the Minister has reasonable grounds to believe that the business may contribute to the matters mentioned in paragraph 17E (3) (b).
- (3) A permit is subject to any conditions specified in the permit.

[19] After Part 2

insert

Part 2A Other matters

17G No claim for breach of contract or failure to perform transaction

- (1) This regulation applies to:
 - (a) the Government of Iran; and
 - (b) a person who is an Iranian national or subject to Iranian jurisdiction; and
 - (c) a designated person or entity; and
 - (d) a person able to claim through, or for the benefit of, the Government of Iran or a person or entity mentioned in paragraph (b) or (c).
- (2) Despite any provision of a law of the Commonwealth, or of a State or Territory, no claim, action or demand may be made or taken against a person for a breach of contract or a failure to perform a transaction if the performance of the contract or transaction was prevented by reason of the measures imposed by Resolution 1737, Resolution 1747, Resolution 1803 or Resolution 1929.

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>.