



Charter of the United Nations (Sanctions — Libyan Arab Jamahiriya) Regulations 2011¹

Select Legislative Instrument 2011 No. 26

I, QUENTIN BRYCE, 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 March 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

CRAIG EMERSON
Minister for Trade

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Part 1 Preliminary

1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions — Libyan Arab Jamahiriya) Regulations 2011*.

2 Commencement

These Regulations commence on the day after they are registered.

3 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.

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 24 of Resolution 1970.

controlled asset means an asset that is owned or controlled by a designated person or entity.

designated person or entity means a person or entity:

- (a) mentioned in Annex II of Resolution 1970; or
- (b) designated by the Committee under paragraph 24 of Resolution 1970.

export sanctioned goods means arms or related matériel.

import sanctioned goods means arms or related matériel.

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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 1970 means Resolution 1970 (2011) of the Security Council of the United Nations, adopted on 26 February 2011.

sanctioned service has the meaning given in regulation 5.

sanctioned supply has the meaning given in regulation 4.

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

4 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 the Libyan Arab Jamahiriya.

5 Sanctioned service

For these Regulations, a ***sanctioned service*** is technical assistance or training, or financial or other assistance, related to:

- (a) military activities; or
- (b) the supply, sale, transfer, manufacture, maintenance or use of export sanctioned goods; or
- (c) the provision of armed mercenary personnel from any place.

Part 2 UN sanction enforcement laws

6 Prohibition of making 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) 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.
- (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 makes a sanctioned supply.
- (4) 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 1 Subregulation (4) 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*.

7 Permit to make 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.

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- (2) The Minister may grant a permit only if the sanctioned supply consists of:
 - (a) supplies of non-lethal military equipment intended solely for humanitarian or protective use; or
 - (b) protective clothing, including flak jackets and military helmets, temporarily exported to the Libyan Arab Jamahiriya by United Nations personnel, representatives of the media and humanitarian and development works and associated personnel, for their personal use only; or
 - (c) other sales or supply of arms or related matériel.
- (3) The Minister must notify the Committee, in advance, of a sanctioned supply under paragraph (2) (a) or (c).
- (4) A permit is subject to any conditions specified in the permit.

8 Prohibition of procuring import sanctioned goods

- (1) A person contravenes this regulation if the person procures import sanctioned goods from the Libyan Arab Jamahiriya or from a person or entity in the Libyan Arab Jamahiriya.
- (2) 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 import sanctioned goods in the course of, or for the purpose of, making a sanctioned supply.
- (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 procures import sanctioned goods from the Libyan Arab Jamahiriya or from a person or entity in the Libyan Arab Jamahiriya.
- (4) 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 1 Subregulation (4) has the effect that the offence has extraterritorial operation.

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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*.

9 Prohibition of providing sanctioned service

- (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) 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 provide a sanctioned service.
- (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.
- (4) 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 1 Subregulation (5) 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*.

10 Permit to provide sanctioned service

- (1) The Minister may, on application, grant a person a permit authorising the provision of:
 - (a) technical assistance and training in relation to the supply of non-lethal military equipment intended solely for humanitarian or protective use as described in paragraph 7 (2) (a); or

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- (b) assistance or personnel in relation to the supply of arms or related matériel as described in paragraph 7 (2) (c).

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 Committee has approved the provision of the assistance, training or personnel.
- (3) A permit is subject to any conditions specified in the permit.

11 Prohibition of making asset available to designated person or entity

- (1) A person contravenes this regulation if:
- (a) the person, directly or indirectly, makes an asset available to, or for the benefit of:
- (i) a designated person or entity; or
 - (ii) a person or entity acting on behalf of or at the direction of a designated person or entity; or
 - (iii) an entity owned or controlled by a designated person or entity; and
- (b) the making available of the asset is not authorised by a permit under regulation 13.
- (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 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 Prohibition of use of or dealing with controlled asset

- (1) A person contravenes this regulation if:
- (a) the person holds a controlled asset; and
- (b) the person:
- (i) uses or deals with the controlled asset; or

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- (ii) allows the controlled asset to be used or dealt with; or
 - (iii) facilitates the use of, or the dealing with, the controlled asset; and
- (c) the use or dealing is not authorised by a permit under regulation 13.

- (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 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*.

13 Permit for assets or 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 11 (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) The application must be for a dealing, described in regulation 5 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008*, in the circumstances mentioned in the table.

Item	Dealing	Circumstances
1	Basic expense dealing	The Minister has notified the Committee that the Minister proposes to authorise the dealing as a basic expense dealing The Committee has not advised the Minister of its opposition to the proposal within 5 working days after the Minister notified the Committee
2	Legally required dealing	The Minister has notified the Committee that the Minister proposes to authorise the dealing as a legally required dealing

Regulation 13

Item	Dealing	Circumstances
		The judicial, administrative or arbitral lien or judgement to which the dealing relates: <ul style="list-style-type: none"> (a) was made on or before 26 February 2011; and (b) was not made for the benefit of a designated person or entity
3	Contractual dealing	If the dealing is the application of interest or other earnings due on an account holding a controlled asset, the interest or other earnings is to be treated as part of the controlled asset
		If the dealing is required under a contract, agreement or obligation made before the date on which an account became an account holding a controlled asset, the account is to be treated as continuing to hold a controlled asset
4	Required payment dealing	The Minister has notified the Committee that the Minister proposes to authorise the dealing as a required payment dealing
		The Minister notified the Committee at least 10 working days before the proposed date of the authorisation
5	Extraordinary expense dealing	The Minister has notified the Committee that the Minister proposes to authorise the dealing as an extraordinary expense dealing
		The Committee has advised the Minister that it has approved the proposal

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

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

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Part 3 Miscellaneous**14 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.

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>.