



# Autonomous Sanctions Regulations 2011<sup>1</sup>

**Select Legislative Instrument 2011 No. 247**

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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 *Autonomous Sanctions Act 2011*.

Dated 7 December 2011

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

CRAIG EMERSON  
Minister for Trade

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**Regulation 1**

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**Part 1 Preliminary****1 Name of Regulations**

These Regulations are the *Autonomous Sanctions Regulations 2011*.

**2 Commencement**

These Regulations commence on the day after they are registered.

**3 Definitions**

In these Regulations:

*Act* means the *Autonomous Sanctions Act 2011*.

*AFP* means the Australian Federal Police.

*arms or related matériel* includes any of the following:

- (a) weapons;
- (b) ammunition;
- (c) military vehicles and equipment;
- (d) spare parts and accessories for the things mentioned in paragraphs (a) to (c);
- (e) paramilitary equipment.

*Australia Group Common Control Lists* means the following lists, adopted by the Australia Group:

- (a) Chemical Weapons Precursors;
- (b) Dual-use chemical manufacturing facilities and equipment and related technology and software;
- (c) Dual-use biological equipment and related technology and software;
- (d) Biological agents;
- (e) Plant pathogens;
- (f) Animal pathogens.

*Note* The Australia Group Common Control Lists are located at <http://www.australiagroup.net>.

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**authorised service** means a sanctioned service authorised by a permit granted under regulation 18.

**authorised supply** means a sanctioned supply authorised by a permit granted under regulation 18.

**commencement day** means the day on which these Regulations commence.

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

**designated asset** means a controlled asset to which a designation relates under regulation 7.

**designated person or entity** means a person or entity that has been designated under paragraph 6 (1) (a) or (2) (a).

*Note* A person may also be declared under paragraph 6 (1) (b) or (2) (b) for the purpose of preventing the person from travelling to, entering or remaining in Australia.

**DPRK** means the Democratic People's Republic of Korea.

**export sanctioned goods** means:

- (a) the goods in the table in subregulation 4 (2); and
- (b) goods designated under subregulation 4 (3).

**FRY** means the former Federal Republic of Yugoslavia.

**financial service** includes:

- (a) an investment service; and
- (b) a service providing financial advice; and
- (c) a brokering service; and
- (d) insurance; and
- (e) reinsurance.

**ICTY** means the International Criminal Tribunal for the former Yugoslavia.

**immediate family member**, of a person, means:

- (a) a spouse of the person; or
  - (b) an adult child of the person; or
  - (c) a spouse of an adult child of the person; or
  - (d) a parent of the person; or
  - (e) a brother, sister, step-brother or step-sister of the person;
- or

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- (f) a spouse of a brother, sister, step-brother or step-sister of the person.

***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).

***sanctioned service*** has the meaning given by regulation 5.

***sanctioned supply*** has the meaning given by regulation 4.

***sanctioned vessel*** has the meaning given by regulation 8.

***vessel*** means a vessel or boat of any description and includes a hovercraft and any floating structure, but does not include an installation.

*Note* Other words and expressions used in these Regulations have the meaning given by section 4 of the Act, including:

- asset
- sanction law.

## Regulation 4

## Part 2 Autonomous sanctions

### 4 Sanctioned supply

- (1) For these Regulations, 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 in relation to a country; and
  - (c) as a direct or indirect result of the supply, sale or transfer the goods are transferred:
    - (i) to that country; or
    - (ii) for use in that country; or
    - (iii) for the benefit of that country.
- (2) Goods mentioned in an item of the table are export sanctioned goods for the country mentioned in the item.

Item	Country	Goods
1	Burma	Arms or related matériel
2	Fiji	Arms or related matériel
3	Iran	(a) Arms or related matériel (b) Goods mentioned in the Australia Group Common Control Lists, as existing from time to time
4	Syria	Arms or related matériel
5	Zimbabwe	Arms or related matériel

- (3) In addition to subregulation (2), the Minister may, by legislative instrument, designate goods as export sanctioned goods for a country mentioned in the designation.

*Example*

Equipment or technology related to the oil and gas industry.

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**5 Sanctioned service**

For these Regulations, a *sanctioned service*, for a country mentioned in an item of the table, is the provision to a person of:

- (a) technical advice, assistance or training; or
- (b) financial assistance; or
- (c) a financial service; or
- (d) another service;

if it assists with, or is provided in relation to, an activity mentioned in the item.

<b>Item</b>	<b>Country</b>	<b>Activity</b>
1	Burma	(a) A military activity (b) An activity involving the supply, sale, transfer, manufacture, maintenance or use of an export sanctioned good for Burma
2	Fiji	(a) A military activity (b) An activity involving the supply, sale, transfer, manufacture, maintenance or use of an export sanctioned good for Fiji
3	Iran	(a) A military activity (b) An activity involving the supply, sale, transfer, manufacture, maintenance or use of an export sanctioned good for Iran
4	Syria	(a) A military activity (b) An activity involving the supply, sale, transfer, manufacture, maintenance or use of an export sanctioned good for Syria
5	Zimbabwe	(a) A military activity (b) An activity involving the supply, sale, transfer, manufacture, maintenance or use of an export sanctioned good for Zimbabwe



**Regulation 6****6 Designation of persons or entities**

- (1) For paragraph 10 (1) (a) of the Act, the Minister may, by legislative instrument, do either or both of the following:
- (a) designate a person or entity mentioned in an item of the table as a *designated person or entity* for the country mentioned in the item;
  - (b) declare a person mentioned in an item of the table for the purpose of preventing the person from travelling to, entering or remaining in Australia.

Item	Country	Person or entity
1	Burma	<ol style="list-style-type: none"> <li>(a) A former member of the State Peace and Development Council (SPDC)</li> <li>(b) A person who the Minister is satisfied is a business associate of the Burmese military</li> <li>(c) A current or former minister or a current or former deputy minister</li> <li>(d) A current or former military officer of the rank of Brigadier-General or higher</li> <li>(e) A senior official in any of Burma's security or corrections agencies</li> <li>(f) A current or former senior officeholder of the Union Solidarity and Development Party (USDP) or the Union Solidarity and Development Association (USDA)</li> <li>(g) A senior official or executive in a state-owned or a military-owned enterprise</li> <li>(h) An immediate family member of a person mentioned in any of paragraphs (a) to (g)</li> </ol>
2	DPRK	A person or entity that the Minister is satisfied is associated with the DPRK's weapons of mass-destruction program or missiles program
3	FFRY	(a) A person who has been indicted for an offence by the ICTY (whether or not the person has been convicted of the offence)

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<b>Item</b>	<b>Country</b>	<b>Person or entity</b>
		<ul style="list-style-type: none"> <li>(b) A person who has been indicted for an offence within the jurisdiction of the ICTY by a domestic court in Bosnia-Herzegovina, Croatia or Serbia (whether or not the person has been convicted of the offence)</li> <li>(c) A person who is subject to an Interpol arrest warrant related to an offence within the jurisdiction of the ICTY</li> <li>(d) A person who the Minister is satisfied is a supporter of the former regime of Slobodan Milosevic</li> <li>(e) A person who is suspected of assisting a person who is: <ul style="list-style-type: none"> <li>(i) indicted by the ICTY; and</li> <li>(ii) not currently detained by the ICTY</li> </ul> </li> </ul>
4	Fiji	<ul style="list-style-type: none"> <li>(a) Commodore Josaia Voreqe Bainimarama</li> <li>(b) A person who the Minister is satisfied is a supporter of the coup with which Commodore Bainimarama is associated, based on any combination of the person's position, actions and statements</li> <li>(c) A Minister of the interim government</li> <li>(d) An officer of the Republic of Fiji Military Forces of the rank of Warrant Officer or higher</li> <li>(e) An immediate family member of a person mentioned in paragraph (a), (b), (c) or (d)</li> <li>(f) A member of the Republic of Fiji Military Forces</li> <li>(g) A person who the Minister is satisfied is a senior public servant appointed by the interim government</li> <li>(h) A person appointed to, or otherwise engaged on, a government board or a quasi-government board by the interim government</li> <li>(i) A member of the judiciary of Fiji</li> </ul>

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<b>Item</b>	<b>Country</b>	<b>Person or entity</b>
5	Iran	<p>(a) A person or entity that the Minister is satisfied has contributed to, or is contributing to, Iran's nuclear or missile programs</p> <p>(b) A person or entity that the Minister is satisfied has assisted, or is assisting, Iran to violate:</p> <p>(i) Resolution 1737, 1747, 1803 or 1929 of the United Nations Security Council; or</p> <p>(ii) a subsequent resolution relevant to a resolution mentioned in subparagraph (i)</p>
6	Libya	<p>(a) A person who the Minister is satisfied was a close associate of the former Qadhafi regime</p> <p>(b) An entity that the Minister is satisfied is under the control of one or more members of Muammar Qadhafi's family</p> <p>(c) A person or entity that the Minister is satisfied has assisted, or is assisting, in the violation of:</p> <p>(i) Resolution 1970 or 1973 of the United Nations Security Council; or</p> <p>(ii) a subsequent resolution relevant to Resolution 1970 or 1973</p> <p>(d) An immediate family member of a person mentioned in paragraph (a) or (c)</p>
7	Syria	<p>A person or entity that the Minister is satisfied is responsible for human rights abuses in Syria, including:</p> <p>(a) the use of violence against civilians; and</p> <p>(b) the commission of other abuses</p>
8	Zimbabwe	<p>A person or entity that the Minister is satisfied is engaged in, or has engaged in, activities that seriously undermine democracy, respect for human rights and the rule of law in Zimbabwe</p>

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- (2) For paragraph 10 (1) (a) of the Act, the Minister may, by legislative instrument, do either or both of the following:
- (a) designate a person or entity as a ***designated person or entity*** if the Minister is satisfied that the person or entity is contributing to the proliferation of weapons of mass destruction;
  - (b) declare a person for the purpose of preventing the person from travelling to, entering or remaining in Australia if the Minister is satisfied that the person is contributing to the proliferation of weapons of mass destruction.

**7 Designating controlled assets**

For paragraph 10 (1) (b) of the Act, the Minister may, by legislative instrument, designate a controlled asset as a ***designated asset***.

**8 Sanctioned vessels***Designation of vessels*

- (1) For paragraph 10 (1) (b) of the Act, the Minister may, by legislative instrument:
- (a) designate a vessel as a ***sanctioned vessel*** for a country mentioned in the designation; or
  - (b) designate each vessel in a class of vessels as a ***sanctioned vessel*** for a country mentioned in the designation.
- (2) A vessel is not required to be owned, registered or flagged by the country mentioned in the designation.
- (3) A sanctioned vessel does not cease to be a sanctioned vessel solely because:
- (a) its name is changed; or
  - (b) the flag under which it is operated changes; or
  - (c) its registration is changed.

**Regulation 9**

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*Directions to sanctioned vessels*

- (4) The Minister may direct a sanctioned vessel to:
  - (a) leave Australia, including by a particular route; or
  - (b) not enter a particular port or place, or any port or place, in Australia.
- (5) Before giving the direction, the Minister must have regard to Australia's obligations at international law.
- (6) A direction given under subregulation (4) in writing is not a legislative instrument.

**9 Duration of designation under regulation 6, 7 or 8 or declaration under regulation 6**

- (1) A designation made under paragraph 6 (1) (a) or (2) (a), regulation 7 or paragraph 8 (1) (a) or (b) ceases to have effect on:
  - (a) if no declaration under subregulation (3) has been made in relation to the designation — the third anniversary of the day on which the designation took effect; or
  - (b) otherwise — the third anniversary of the making of the most recent declaration under subregulation (3) in relation to the designation.
- (2) A declaration made under paragraph 6 (1) (b) or (2) (b) ceases to have effect on:
  - (a) if no declaration under subregulation (3) has been made in relation to the declaration — the third anniversary of the day on which the declaration took effect; or
  - (b) otherwise — the third anniversary of the making of the most recent declaration under subregulation (3) in relation to the declaration.
- (3) The Minister may, by legislative instrument, declare that a designation or declaration specified in the instrument continues to have effect.

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- (4) The Minister must not:
- (a) make a declaration under subregulation (3) in relation to a designation made under paragraph 6 (1) (a) unless the Minister is satisfied that the person or entity to which the designation relates is mentioned in an item of the table in subregulation 6 (1); or
  - (b) make a declaration under subregulation (3) in relation to a designation made under paragraph 6 (2) (a) unless the Minister is satisfied that the person or entity to which the designation relates is contributing to the proliferation of weapons of mass destruction; or
  - (c) make a declaration under subregulation (3) in relation to a designation made under regulation 7 unless the Minister is satisfied on reasonable grounds that the asset to which the designation relates is a controlled asset.
- (5) To avoid doubt:
- (a) subregulation (1) does not prevent the revocation, under regulation 10, of a designation; and
  - (b) subregulation (1) does not prevent the making, under paragraph 6 (1) (a) or (2) (a), regulation 7 or paragraph 8 (1) (a) or (b), of a new designation that is the same in substance as another designation (whether the new designation is made or takes effect before or after the other designation ceases to have effect because of subregulation (1)); and
  - (c) subregulation (2) does not prevent the revocation, under regulation 10, of a declaration; and
  - (d) subregulation (2) does not prevent the making, under paragraph 6 (1) (b) or (2) (b), of a new declaration that is the same in substance as another declaration (whether the new declaration is made or takes effect before or after the other declaration ceases to have effect because of subregulation (2)).

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**10 Revocation of designation under regulation 6, 7 or 8 or declaration under regulation 6**

- (1) The Minister may, by legislative instrument, revoke:
  - (a) a designation made under paragraph 6 (1) (a) or (2) (a), regulation 7 or paragraph 8 (1) (a) or (b); or
  - (b) a declaration made under paragraph 6 (1) (b) or (2) (b).
- (2) The Minister may revoke a designation or declaration on the Minister's initiative.
- (3) The Minister may also revoke:
  - (a) a designation made under paragraph 6 (1) (a) or (2) (a); or
  - (b) a declaration made under paragraph 6 (1) (b) or (2) (b);  
on application by the designated person or entity to which the designation relates.

*Note* See regulation 11.

- (4) The Minister may also revoke a designation made under regulation 7 on application by the designated person or entity that owns or controls the designated asset to which the designation relates.

*Note* See regulation 11.

- (5) The Minister may also revoke a designation made under paragraph 8 (1) (a) or (b) on application by:
  - (a) the owner of the sanctioned vessel to which the designation relates; or
  - (b) the person who controls the sanctioned vessel to which the designation relates.

*Note* See regulation 11.

**11 Application for revocation of designation under regulation 6, 7 or 8 or declaration under regulation 6**

- (1) For regulation 10:
  - (a) a designated person or entity may apply to the Minister to revoke the designation of the person or entity; and

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- (b) a person who has been declared under paragraph 6 (1) (b) or (2) (b) may apply to the Minister to revoke the declaration of the person; and
  - (c) a person or entity that owns or controls a designated asset may apply to the Minister to revoke the designation of the asset; and
  - (d) the owner of a sanctioned vessel may apply to the Minister to revoke the designation of the vessel; and
  - (e) a person who controls a sanctioned vessel may apply to the Minister to revoke the designation of the vessel.
- (2) The application must:
- (a) be in writing; and
  - (b) set out the circumstances relied upon to justify the application.
- (3) The Minister is not required to consider an application (the *current application*) by a person or entity under this regulation if the person or entity has made an application under this regulation within one year before the current application.



## Part 3 Sanctions laws

### 12 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 16 of the Act that relates to a contravention of this regulation.

*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.

*Note* This regulation may be specified as a sanction law by the Minister under section 6 of the Act.

### 13 Prohibitions relating to the provision of sanctioned services

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

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- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 16 of the Act that relates to a contravention of this regulation.

*Note* This 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, 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.

*Note* This regulation may be specified as a sanction law by the Minister under section 6 of the Act.

**14 Prohibition of dealing 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 granted under regulation 18.
- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 16 of the Act that relates to a contravention of this regulation.

*Note 1* This has the effect that the offence has extraterritorial operation.

*Note 2* This regulation may be specified as a sanction law by the Minister under section 6 of the Act.

**15 Prohibition of dealing with controlled assets**

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

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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 granted under regulation 18.

- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 16 of the Act that relates to a contravention of this regulation.

*Note 1* This has the effect that the offence has extraterritorial operation.

*Note 2* This regulation may be specified as a sanction law by the Minister under section 6 of the Act.

**16 Prohibitions relating to sanctioned vessels**

- (1) A person contravenes this regulation if:
  - (a) a direction is given to a sanctioned vessel under subregulation 8 (4); and
  - (b) the person engages in conduct; and
  - (c) the conduct causes the sanctioned vessel to contravene the direction.

- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 16 of the Act that relates to a contravention of this regulation.

*Note 1* This has the effect that the offence has extraterritorial operation.

*Note 2* This regulation may be specified as a sanction law by the Minister under section 6 of the Act.

***Exception — safety of vessel or human life***

- (3) Subregulation (1) does not apply if the person is engaging in conduct necessary to secure the safety of the sanctioned vessel or human life.

*Note* A defendant bears an evidential burden in relation to the matters in subregulation (3) (see subsection 13.3 (3) of the *Criminal Code*).

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*Exception — authorisation or requirement under Part IIIAAA of the Defence Act 1903*

- (4) Subregulation (1) does not apply if the operation of the sanctioned vessel or the conduct of the person is authorised or required under Part IIIAAA of the *Defence Act 1903*.

*Note* A defendant bears an evidential burden in relation to the matters in subregulation (4) (see subsection 13.3 (3) of the *Criminal Code*).

- (5) It is not a defence to a prosecution for an offence against subregulation (1) that the operation of the sanctioned vessel or the conduct of the person is authorised or required under any other law.

**17 Forfeiture of sanctioned vessels**

- (1) A sanctioned vessel is forfeited to the Commonwealth if:
- (a) a direction is given to the sanctioned vessel under subregulation 8 (4); and
  - (b) the sanctioned vessel contravenes the direction.

*Exception — safety of vessel or human life*

- (2) Subregulation (1) does not apply if the contravention is necessary to secure the safety of the sanctioned vessel or human life.

*Exception — authorisation or requirement under Part IIIAAA of the Defence Act 1903*

- (3) Subregulation (1) does not apply if the contravention is authorised or required under Part IIIAAA of the *Defence Act 1903*.

## Part 4 Authorisations

### 18 Minister may grant permits

- (1) The Minister may grant to a person a permit authorising:
  - (a) the making of a sanctioned supply; or
  - (b) the provision of a sanctioned service; or
  - (c) the making available of an asset to a person or entity that would otherwise contravene regulation 14; or
  - (d) a use of, or a dealing with, a controlled asset.

*Note* Section 15 of the Act applies to a permit granted by the Minister under this subregulation.

- (2) The Minister may grant a permit:
  - (a) on the Minister's initiative; or
  - (b) on application by a person.
- (3) The Minister must not grant a permit unless the Minister is satisfied:
  - (a) that it would be in the national interest to grant the permit; and
  - (b) about any circumstance or matter required by this Part to be considered for a particular kind of permit.
- (4) A permit may be granted subject to conditions specified in the permit.

### 19 Minister may waive operation of declaration under paragraph 6 (1) (b) or (2) (b)

- (1) This regulation applies if:
  - (a) the Minister has declared a person under paragraph 6 (1) (b) or (2) (b) for the purpose of preventing the person from travelling to, entering or remaining in Australia; and
  - (b) the person:
    - (i) holds a visa under the *Migration Act 1958*; or

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- (ii) had applied under that Act for the grant of a visa before the declaration, and the application had not been finally determined (within the meaning of that Act) before the declaration; or
  - (iii) applies under that Act for the grant of a visa after the declaration.
- (2) The Minister may, in writing, waive the operation of the declaration to the extent that it would have the effect of preventing the person from travelling to, entering or remaining in Australia as would be permitted by the visa.
- (3) The Minister may waive the operation of the declaration only:
  - (a) on the grounds that it would be in the national interest; or
  - (b) on humanitarian grounds.
- (4) The Minister may waive the operation of the declaration subject to conditions specified in the waiver.
- (5) A waiver has effect:
  - (a) for the period (if any) specified by the Minister in the waiver; or
  - (b) in the circumstances (if any) specified by the Minister in the waiver.
- (6) The waiver ceases to have effect if:
  - (a) the person fails to comply with a condition to which it is subject; or
  - (b) the period (if any) for which it has effect ends; or
  - (c) the circumstances in which it has effect cease to exist.

**20 Permit for assets and controlled assets**

- (1) An application for a permit authorising the making available of an asset to a person or entity that would otherwise contravene regulation 14 must be for:
  - (a) a basic expense dealing; or
  - (b) a legally required dealing; or
  - (c) a contractual dealing.

*Note* See paragraph 18 (1) (c).

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- (2) An application for a permit authorising a use of, or a dealing with, a controlled asset must be for:
- (a) a basic expense dealing; or
  - (b) a legally required dealing; or
  - (c) a contractual dealing.

*Note* See paragraph 18 (1) (d).

- (3) A dealing is a ***basic expense dealing*** if:
- (a) it is constituted by:
    - (i) a payment to a designated person or entity; or
    - (ii) a payment to a person or entity acting on behalf of, or at the direction of, a designated person or entity; or
    - (iii) a payment to an entity owned or controlled by a designated person or entity; or
    - (iv) a use or dealing with a controlled asset; and
  - (b) the dealing is necessary for basic expenses, including any of the following:
    - (i) foodstuffs;
    - (ii) rent or mortgage;
    - (iii) medicines or medical treatment;
    - (iv) taxes;
    - (v) insurance premiums;
    - (vi) public utility charges;
    - (vii) reasonable professional fees;
    - (viii) reimbursement of expenses associated with the provision of legal services;
    - (ix) fees or service charges that are in accordance with a law in force in Australia for the routine holding or maintenance of frozen assets.
- (4) A dealing is a legally required dealing if:
- (a) it is constituted by:
    - (i) a payment to a designated person or entity; or
    - (ii) a payment to a person or entity acting on behalf of, or at the direction of, a designated person or entity; or

**Regulation 20**

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- (iii) a payment to an entity owned or controlled by a designated person or entity; or
    - (iv) a use or dealing with a controlled asset; and
  - (b) the dealing is necessary to satisfy a judicial, administrative or arbitral lien or judgement that was made prior to the date on which the person or entity became a designated person or entity; and
  - (c) the dealing is not for the benefit of a designated person or entity.
- (5) A dealing is a ***contractual dealing*** if:
  - (a) it is constituted by:
    - (i) a payment to a designated person or entity; or
    - (ii) a payment to a person or entity acting on behalf of, or at the direction of, a designated person or entity; or
    - (iii) a payment to an entity owned or controlled by a designated person or entity; or
    - (iv) a use or dealing with a controlled asset; and
  - (b) the dealing is a payment:
    - (i) to apply interest or other earnings due on accounts holding controlled assets; or
    - (ii) required under contracts, agreements or obligations made before the date on which those accounts became accounts holding controlled assets.

*Note* If the account into which the payment is paid is frozen under Sanctions Regulations, this payment will also be frozen once received.



## Part 5 Dealing with assets

### 21 Advance notice of listing of persons, entities and assets

- (1) The Department may give notice of a designation made under paragraph 6 (1) (a) or (2) (a) or regulation 7 to any person who is engaged in the business of holding, dealing in, or facilitating dealing in, assets.
- (2) The Department may give the notice before the designation is published.

### 22 Consolidated list of entities, persons and assets

- (1) The Department must maintain a document that sets out:
  - (a) all persons and entities that are currently designated persons or entities; and
  - (b) all assets or classes of assets currently designated under regulation 8.
- (2) The document must contain the following information about a designated person or entity:
  - (a) the name of the person, including any alias for the person known to the Department;
  - (b) the name of the entity, and any registration or incorporation number or name that will facilitate the identification of the entity;
  - (c) the date on which the person or entity was designated.
- (3) The document must contain the following information about a designated asset:
  - (a) a description of the asset or class of assets;
  - (b) the name of the designated person or entity that, owns or controls the asset;
  - (c) the date on which the asset was designated under regulation 7.

**Regulation 23**

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- (4) The document must be made available to the public on the Department's website.
- (5) The document may be consolidated with the document mentioned in regulation 40 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008*.

**23 Request to AFP for help**

- (1) A person who holds an asset that the person suspects is, or may be, a controlled asset may request the AFP to help the person determine whether or not the asset is owned or controlled by a designated person or entity.
- (2) The request must be accompanied by:
  - (a) details of the asset; and
  - (b) as much information about the asset (including information about the owner or controller of the asset) as is known to the person making the request.
- (3) The AFP must use its best endeavours to help a person who has made a request under subregulation (1).
- (4) As soon as practicable after receiving a request under subregulation (1), the AFP must respond in writing.
- (5) The response must state whether the AFP considers that:
  - (a) it is likely that the asset is owned or controlled by a designated person or entity; or
  - (b) it is unlikely that the asset is owned or controlled by a designated person or entity; or
  - (c) it is unknown whether the asset is owned or controlled by a designated person or entity.

*Note* These Regulations do not limit the obligation of:

- (a) a cash dealer under section 16 of the *Financial Transaction Reports Act 1988* to report a suspicious transaction; or
- (b) a reporting entity under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

**Regulation 25**

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**24 Informing AFP of opinion about asset**

- (1) This regulation sets out what a person who is holding an asset must do if the person forms an opinion (a *notifiable opinion*) that:
  - (a) the asset is a controlled asset; or
  - (b) the asset, having been a controlled asset, or having been previously treated by the person as a controlled asset, is not, or is no longer, a controlled asset.
- (2) Paragraph (1) (b) does not apply if:
  - (a) the asset has been removed from the document mentioned in regulation 22; or
  - (b) all designated persons and entities associated with the asset have been removed from the document.
- (3) As soon as practicable after a person forms a notifiable opinion, the person must inform the AFP of:
  - (a) the asset about which the opinion was formed; and
  - (b) as much information about the asset (including information about the owner or controller of the asset) as is known to the person; and
  - (c) the reasons for the opinion.

**25 Protection of information**

- (1) This regulation applies to a person who, at the time that something is done under the Act or these Regulations (a *relevant action*), is:
  - (a) the Minister; or
  - (b) the Secretary of the Department; or
  - (c) an APS employee; or
  - (d) an AFP employee, or a member of the Australian Federal Police, within the meaning of the *Australian Federal Police Act 1979*; or
  - (e) a person who holds a controlled asset or an asset that the person suspects may be a controlled asset; or
  - (f) a person employed by a person mentioned in paragraph (e).

**Regulation 25**

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- (2) A person to whom this regulation applies is not required:
- (a) to produce in a court any document that has come into the custody or control of the person in the course of, or because of, the relevant action; or
  - (b) to divulge or communicate to a court any matter or thing that has come to the notice of the person in the course of, or because of, the relevant action;
- unless it is necessary to do so to comply with the Act or these Regulations.

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**Regulation 26**

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**Part 6                      Miscellaneous****26                      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.

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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>.