



Charter of the United Nations (Sanctions—the Taliban) Regulation 2013¹

Select Legislative Instrument 2013 No. 73

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Charter of the United Nations Act 1945*.

Dated 16 May 2013

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

BOB CARR
Minister for Foreign Affairs

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Charter of the United Nations (Sanctions—the Taliban) Regulation 2013*.

2 Commencement

This regulation commences on the day after it is registered.

3 Definitions

In this regulation:

Act means the *Charter of the United Nations Act 1945*.

arms or related matériel includes the following:

- (a) weapons;
- (b) ammunition;
- (c) military vehicles and equipment;
- (d) spare parts for the things mentioned in paragraphs (a) to (c);
- (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 30 of Resolution 1988.

controlled asset means:

- (a) an asset of a designated person or entity; or
- (b) funds derived from an asset owned or controlled, directly or indirectly, by:
 - (i) a designated person or entity; or
 - (ii) a person acting on behalf of or at the direction of a designated person or entity.

Section 4

designated person or entity means:

- (a) the Taliban; or
- (b) a person or entity designated by the Committee or by the Security Council for paragraph 1 of Resolution 1988.

export sanctioned goods has the meaning given by section 4.

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 1988 means Resolution 1988 (2011) of the Security Council, adopted on 17 June 2011.

sanctioned service has the meaning given by section 6.

sanctioned supply has the meaning given by section 5.

Security Council means the Security Council of the United Nations.

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

Note In this regulation:

- (a) the ***Minister*** is the Minister for Foreign Affairs; and
- (b) ***asset*** has the meaning given by section 2 of the Act.

4 Export sanctioned goods

For this regulation, ***export sanctioned goods*** means arms or related matériel.

Section 6

5 Sanctioned supply

For this regulation, 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 a designated person or entity.

6 Sanctioned service

For this regulation, *sanctioned service* means the provision of technical advice, assistance or training related to military activities to a designated person or entity.

Section 7

Part 2 UN sanction enforcement laws**7 Prohibitions relating to sanctioned supply**

- (1) A person contravenes this section if the person makes a sanctioned 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 this section.

Note Subsection (2) 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 section 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.
- (4) A body corporate contravenes this section 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.

Note This section is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

8 Prohibitions relating to sanctioned services

- (1) A person contravenes this section if the person provides a sanctioned service.
- (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 section.

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

Section 9

- (3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this section if the person uses the services of an Australian ship or an Australian aircraft in the course of, or for the purpose of, providing a sanctioned service.
- (4) A body corporate contravenes this section 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.

Note This section 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 relating to dealings with designated persons or entities

- (1) A person contravenes this section 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 under section 11.
- (2) Strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under section 11.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

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

Note 1 Subsection (3) has the effect that the offence has extraterritorial operation.

Note 2 This section is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

Section 10

10 Prohibition relating to controlled assets

- (1) A person contravenes this section if:
 - (a) the person holds a controlled asset; and
 - (b) the person:
 - (i) uses or deals with the asset; or
 - (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 under section 11.
- (2) Strict liability applies to the circumstance that the use of or dealing with the asset is not authorised by a permit under section 11.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

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

Note 1 Subsection (3) has the effect that the offence has extraterritorial operation.

Note 2 This section 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 for assets and 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 subsection 9 (1); or
 - (b) a use of, or dealing with, a controlled asset that would otherwise contravene subsection 10 (1).

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

- (2) The application must be for a basic expense dealing, contractual dealing or extraordinary expense dealing as defined in regulation 5 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008*.

Section 11

- (3) The application must specify which kind of dealing mentioned in subsection (2) the application is for.
- (4) If the application is for a basic expense dealing, the Minister:
 - (a) must notify the Committee of the application; and
 - (b) may grant a permit only if 3 working days have passed since the notice was given, and the Committee has not advised against granting a permit to the applicant.
- (5) If the application is for an extraordinary expense dealing, the Minister:
 - (a) must notify the Committee of the application; and
 - (b) may grant a permit only with the approval of the Committee.
- (6) The permit is subject to any conditions specified in the permit.

Note Part 2 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008* applies to this regulation.

Section 12

Part 3 Miscellaneous**12 Delegations by Minister**

- (1) The Minister may delegate the Minister's powers and functions under this regulation (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 www.comlaw.gov.au.