Explanatory Statement

Issued by the authority of the Minister for Foreign Affairs

*Charter of the United Nations Act 1945*

*Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2013 (No. 1)*

The purpose of *Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2013(No. 1)* (**Amendment Declaration**)is to make a consequential amendment to the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008* (**Declaration**) to reflect the enactment of the *Charter of the United Nations (Sanctions – the Taliban) Regulation 2013* (**Taliban Regulation**)*.*

‘UN sanction enforcement law’ is defined in section 2 of the *Charter of the United Nations Act 1945* (**Act**) to mean a provision that is specified in an instrument under sub-section 2B (1) of the Act. Section 2B provides that the Minister may, by legislative instrument, specify a provision of a law of the Commonwealth to be a UN sanction enforcement law to the extent that the provision gives 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.

For subsection 2B (1) of the Act, each item in Schedule 1 of the Declaration is specified as a UN sanction enforcement law. Item 1 of Schedule 1 of the Amendment Declaration substitutes a new Schedule 1 which includes as items regulations 7, 8, 9 and 10 of the Taliban Regulation.

No public consultation was undertaken in relation to the Amendment Declaration as it implements Australia’s international legal obligations arising from decisions of the United Nations Security Council.

Details of the Legislative Instrument are set out in the Annex.

**Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

*Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2013 (No. 1)*

*The Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2013 (No. 1)* (**Amendment Declaration**) makes consequential amendments to the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008* (**Declaration**) to reflect the enactment of the *Charter of the United Nations (Sanctions – the Taliban) Regulation 2013* (**Taliban Regulation**)*.*

Each item in Schedule 1 of the Declaration is specified as a UN sanction enforcement law. The Amendment Declaration substitutes a new Schedule 1 so that it includes as items regulations 7, 8, 9 and 10 of the Taliban Regulation. Regulations 7,8, 9 and 10 of the Taliban Regulation replicate the sanctions enforcement laws in the previous *Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Regulations 2008*, which was split into two separate sanctions regimes by the Taliban Regulation and the *Charter of the United Nations Legislation Amendment Regulation 2013* to implement the decision by the UNSC in resolutions 1988 and 1989 of 17 June 2011, which split the Al-Qaida and Taliban sanctions regimes but did not change their scope*.* The Amendment Declaration does not make any substantive changes to Australian law.

The consequential amendments made by the Amendment Declarationdo not engage, and are therefore compatible with, the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Annex**

***Details of the Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2013 (No. 1)***

**Paragraph 1 – Name of Instrument**

Paragraph 1 of the Amendment Declaration provides that the name of the Amendment Declaration is the *Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2013 (No. 1).*

**Paragraph 2 - Commencement**

Paragraph 2 provides that the Amendment Declaration shall commence on the day after it is registered.

**Paragraph 3 – Amendment of the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008***

Paragraph 3 provides that Schedule 1 of the Amendment Declaration amends the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

**Schedule 1 - Amendment**

Schedule 1, item 1 substitutes a new Schedule 1 of the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

The substituted Schedule 1 reflects changes made as a consequence of the splitting of the Al-Qaida and Taliban sanctions regimes.

The substituted Schedule 1 removes regulations 8, 9, 10 and 11 of the *Charter of the United Nations (Sanctions - Al-Qaida and the Taliban) Regulations 2008* from item 1.

The substituted Schedule 1 inserts regulations 8, 9, 10 and 11 of the *Charter of United Nations (Sanctions – Al-Qaida) Regulations 2008* as item 1. Regulations 8, 9, 10 and 11 were implemented by the *Charter of the United Nations Legislation Amendment Regulation 2013 (No. 1)*.

The substituted Schedule 1 inserts regulations 7, 8, 9 and 10 of the *Charter of the United Nations (Sanctions – the Taliban) Regulation 2013* as item 2.

The splitting of the Al-Qaida and Taliban sanctions regimes implements Australia’s obligations under UNSC resolutions 1988 (2011) and 1989 (2011).

The substituted Schedule 1 also changes the numbering of items 3 to 15 to take account of the above insertions.