



Charter of the United Nations Legislation Amendment Regulation 2013 (No. 1)¹

Select Legislative Instrument 2013 No. 72

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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1 Name of regulation

This regulation is the *Charter of the United Nations Legislation Amendment Regulation 2013 (No. 1)*.

2 Commencement

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

3 Amendment of *Charter of the United Nations (Sanctions — Al-Qaida and the Taliban) Regulations 2008*

Schedule 1 amends the *Charter of the United Nations (Sanctions — Al-Qaida and the Taliban) Regulations 2008*.

4 Amendment of *Charter of the United Nations (Dealing with Assets) Regulations 2008*

Schedule 2 amends the *Charter of the United Nations (Dealing with Assets) Regulations 2008*.

5 Amendment of *Charter of the United Nations (Sanctions — Somalia) Regulations 2008*

Schedule 3 amends the *Charter of the United Nations (Sanctions — Somalia) Regulations 2008*.

6 Amendment of *Charter of the United Nations (Sanctions — Eritrea) Regulations 2010*

Schedule 4 amends the *Charter of the United Nations (Sanctions — Eritrea) Regulations 2010*.

7 **Amendment of *Charter of the United Nations (Sanctions — Sudan) Regulations 2008***

Schedule 5 amends the *Charter of the United Nations (Sanctions — Sudan) Regulations 2008*.

8 **Amendment of *Charter of the United Nations (Sanctions — Cote d'Ivoire) Regulations 2008***

Schedule 6 amends the *Charter of the United Nations (Sanctions — Cote d'Ivoire) Regulations 2008*.

Schedule 1 **Amendments of *Charter of the United Nations (Sanctions — Al-Qaida and the Taliban) Regulations 2008***

(section 3)

[1] Regulation 1

substitute

1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008*.

[2] Regulation 4, definition of *designated person or entity*

substitute

designated person or entity means:

- (a) Al-Qaida; or
- (b) a person or entity designated by the Committee or by the Security Council for paragraph 1 of Resolution 1989.

[3] Regulation 4, definitions of *Resolution 1390* and *Resolution 1735*

substitute

Resolution 1989 means Resolution 1989 (2011) of the Security Council, adopted on 17 June 2011.

[4] Regulation 4, definitions of *sanctioned service* and *sanctioned supply*

omit

in

insert

by

[5] Regulation 4, note, paragraph (b)

omit

in

insert

by

[6] Regulation 6

omit

A person

insert

For these Regulations, a person

[7] After subregulation 10 (1)

insert

- (1A) Strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under regulation 12.

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

[8] After subregulation 11 (1)

insert

- (1A) Strict liability applies to the circumstance that the use of or dealing with the asset is not authorised by a permit under regulation 12.

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

[9] Paragraph 12 (1) (b)

substitute

- (b) a use of, or dealing with, a controlled asset that would otherwise contravene subregulation 11 (1).

Schedule 2 **Amendment of *Charter of the United Nations (Dealing with Assets) Regulations 2008***

(section 4)

[1] **Regulation 4, definition of *Sanctions Regulations***

substitute

Sanctions Regulations means the following:

- (a) the *Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008*;
- (b) the *Charter of the United Nations (Sanctions—Côte d’Ivoire) Regulations 2008*;
- (c) the *Charter of the United Nations (Sanctions — Democratic People’s Republic of Korea) Regulations 2008*;
- (d) the *Charter of the United Nations (Sanctions — Democratic Republic of the Congo) Regulations 2008*;
- (e) the *Charter of the United Nations (Sanctions — Eritrea) Regulations 2010*;
- (f) the *Charter of the United Nations (Sanctions — Iran) Regulations 2008*;
- (g) the *Charter of the United Nations (Sanctions — Iraq) Regulations 2008*;
- (h) the *Charter of the United Nations (Sanctions — Lebanon) Regulations 2008*;
- (i) the *Charter of the United Nations (Sanctions — Liberia) Regulations 2008*;
- (j) the *Charter of the United Nations (Sanctions — Libyan Arab Jamahiriya) Regulations 2011*;
- (k) the *Charter of the United Nations (Sanctions — Somalia) Regulations 2008*;
- (l) the *Charter of the United Nations (Sanctions — Sudan) Regulations 2008*;

-
- (m) the *Charter of the United Nations (Sanctions—the Taliban) Regulation 2013*;
 - (n) these Regulations.

Schedule 3 Amendments of *Charter of the United Nations (Sanctions — Somalia) Regulations 2008*

(section 5)

[1] Regulation 4

insert

Resolution 2060 means Resolution 2060 (2012) of the Security Council of the United Nations, adopted on 25 July 2012.

[2] After subregulation 8 (1)

insert

- (1A) Strict liability applies to the circumstance that the making of the sanctioned supply is not authorised by a permit under regulation 9.

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

[3] Subregulation 8 (5), definition of *authorised supply*, subparagraph (b) (iii)

omit

and Resolution 1744.

insert

, Resolution 1744 and Resolution 2060.

[4] Paragraph 9 (2) (e)

omit

1851.

insert

1851; or

[5] After paragraph 9 (2) (e)

insert

- (f) is a supply of weapons and military equipment that:
- (i) is solely for the support of, or use by, the United Nations Political Office for Somalia; and
 - (ii) is approved in advance by the Committee.

[6] After paragraph 10 (1)

insert

- (1A) Strict liability applies to the circumstance that the provision of a sanctioned service is not authorised by a permit under regulation 11.

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

[7] Paragraph 11 (2) (c)

omit

1846.

insert

1846; or

[8] After paragraph 11 (2) (c)

insert

- (d) is the provision of assistance that:
- (i) is solely for the support of, or use by, the United Nations Political Office for Somalia; and
 - (ii) is approved in advance by the Committee.

[9] After subregulation 13 (1)

insert

- (1AA) Strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under regulation 15.

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

[10] After subregulation 14 (1)

insert

- (1AA) Strict liability applies to the circumstance that the use of or dealing with the asset is not authorised by a permit under regulation 15.

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

[11] Paragraph 15 (1) (b)

substitute

- (b) a use of, or dealing with, a controlled asset that would otherwise contravene subregulation 14 (1).

Schedule 4 **Amendments of *Charter of the United Nations (Sanctions — Eritrea) Regulations 2010***

(section 6)

[1] **Regulation 3, definition of *Committee***

after

Resolution 1844

insert

and Resolution 1907

[2] **Regulation 3**

insert

Resolution 2060 means Resolution 2060 (2012) of the Security Council of the United Nations, adopted on 25 July 2012.

[3] **Regulation 8**

substitute

8 Prohibition of 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) Strict liability applies to the circumstance that the making of the sanctioned supply is not authorised by a permit under regulation 8A.

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

- (3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if:
- (a) 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; and
 - (b) the sanctioned supply 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.
- (5) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).
- Note* Subregulation (5) has the effect that the offence has extraterritorial operation.
- (6) For this regulation:
- authorised supply*** means a sanctioned supply that is authorised by:
- (a) a permit under regulation 8A; or
 - (b) if the supply, sale or transfer takes place in or from a foreign country—a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1907 and Resolution 2060.
- (7) A defendant to a charge under section 27 of the Act that relates to subregulation (1), (3) or (4) bears an evidential burden in relation to the matter in subparagraph (b) (i) of the definition of ***authorised supply*** in subregulation (6).

- (8) For paragraph (b) of the definition of *authorised supply* in subregulation (6), the permit is taken not to have been properly granted if the prosecution shows that the permit was granted on the basis of false or misleading information provided by any person, or of corrupt conduct by any person.

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*.

8A 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.

- (2) The Minister may grant the permit only if the sanctioned supply:
- (a) is a supply of protective clothing that is temporarily exported to Eritrea for the personal use of:
 - (i) a member of the personnel of the United Nations; or
 - (ii) a representative of the media; or
 - (iii) a humanitarian or development worker or an associated person; or
 - (b) is a supply of non-lethal military equipment that:
 - (i) is intended solely for humanitarian or protective use; and
 - (ii) is approved in advance by the Committee.
- (3) The permit is subject to any conditions specified in the permit.

[4] Regulation 10

substitute

10 Prohibition relating to sanctioned service

- (1) A person contravenes this regulation if:
- (a) the person provides a sanctioned service to:
 - (i) Eritrea; or

- (ii) a person or entity in Eritrea; and
 - (b) the service is not provided in relation to an authorised supply.
- (2) A person contravenes this regulation if the person procures a sanctioned service from:
 - (a) Eritrea; or
 - (b) a person or entity in Eritrea.
- (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:
 - (a) if the service is not provided in relation to an authorised supply—to provide a sanctioned service; or
 - (b) to procure a sanctioned service.
- (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:
 - (i) if the service is not provided in relation to an authorised supply—provides a sanctioned service; or
 - (ii) procures a sanctioned service from Eritrea or a person in Eritrea.
- (5) 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*.

[5] After subregulation 12 (1)

insert

- (1A) Strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under regulation 14.

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

[6] After subregulation 13 (1)

insert

- (1A) Strict liability applies to the circumstance that the use or dealing with the asset is not authorised by a permit under regulation 14.

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

[7] Paragraph 14 (1) (b)

substitute

- (b) a use of, or dealing with, a controlled asset that would otherwise contravene subregulation 13 (1).

Schedule 5 **Amendments of *Charter of the United Nations (Sanctions — Sudan) Regulations 2008***

(section 7)

[1] **After subregulation 8 (1)**

insert

- (1A) Strict liability applies to the circumstance that the making of the sanctioned supply is not authorised by a permit under regulation 9.

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

[2] **Subregulation 9 (3), table, items 4 & 5**

substitute

- 4 of military equipment and supplies for use in the Darfur region that is approved in advance by the Committee in response to a request by the Government of Sudan

[3] **After subregulation 10 (1)**

insert

- (1A) Strict liability applies to the circumstance that the provision of a sanctioned service is not authorised by a permit under regulation 11.

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

[4] **Subregulation 11 (2)**

omit

the table in

[5] Subregulation 11 (3), including the table

substitute

- (3) The Minister may grant a permit authorising the provision of a sanctioned service to a person mentioned in the table in subregulation (2) only if the sanctioned service to which the permit relates is:
- (a) for an authorised operation; or
 - (b) provided in relation to a supply of non-lethal military equipment that is intended solely for humanitarian use, human rights monitoring or protective use.

[6] After subregulation 12 (1)

insert

- (1A) Strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under regulation 14.

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

[7] After subregulation 13 (1)

insert

- (1A) Strict liability applies to the circumstance that the use of or dealing with the asset is not authorised by a permit under regulation 14.

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

Schedule 6 **Amendments of *Charter of the United Nations (Sanctions — Cote d'Ivoire) Regulations 2008***
(section 8)

[1] Regulation 1

substitute

1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions—Côte d'Ivoire) Regulations 2008*.

[2] Regulation 4

insert

Resolution 1643 means Resolution 1643 (2005) of the Security Council of the United Nations, adopted on 15 December 2005.

Resolution 1893 means Resolution 1893 (2009) of the Security Council of the United Nations, adopted on 29 October 2009.

[3] After subregulation 9 (1)

insert

- (1A) Strict liability applies to the circumstance that the making of the sanctioned supply is not authorised by a permit under regulation 10.

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

[4] **Regulation 11**

substitute

11 Prohibitions relating to import of sanctioned goods

- (1) A person contravenes this regulation if:
- (a) the person procures import sanctioned goods from Côte d'Ivoire or from a person or entity in Côte d'Ivoire; and
 - (b) the procurement is not an authorised procurement.
- (2) Strict liability applies to the circumstance that the procurement is not authorised by a permit under regulation 12.

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

- (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 Côte d'Ivoire or a person or entity in Côte d'Ivoire; and
 - (c) the procurement is not an authorised procurement.
- (4) In this regulation:
- authorised procurement** means a sanctioned procurement that is authorised by:
- (a) a permit under regulation 12; or
 - (b) if the procurement takes place in or from a foreign country—a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1643 and Resolution 1893.

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*.

12 Permit to make sanctioned procurement

- (1) The Minister may, on application, grant a person a permit authorising the making of a sanctioned procurement.

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

- (2) The Minister may grant the permit only if the sanctioned procurement will be made solely for the purposes of scientific research and analysis to facilitate the development of specific technical information concerning Ivorian diamond production, provided that the research:
- (a) is coordinated by the Kimberley Process; and
 - (b) is approved on a case by case basis by the Committee.
- (3) The permit is subject to any conditions specified in the permit.

[5] After subregulation 14 (1)

insert

- (1A) Strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under regulation 16.

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

[6] After subregulation 15 (1)

insert

- (1A) Strict liability applies to the circumstance that the use of or dealing with the asset is not authorised by a permit under regulation 16.

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

[7] Paragraph 16 (1) (b)

substitute

- (b) a use of, or dealing with, a controlled asset that would otherwise contravene subregulation 15 (1).

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.