

EXPLANATORY STATEMENT

Select Legislative Instrument No. 246, 2013

Charter of the United Nations Act 1945

Charter of the United Nations (Sanctions–Somalia) Amendment Regulation 2013 (No. 1)

The purpose of the *Charter of the United Nations (Sanctions–Somalia) Amendment Regulation 2013 (No. 1)* (the Regulation) is to amend the *Charter of the United Nations (Sanctions–Somalia) Regulations 2008* (the Principal Regulations) to implement decisions of the United Nations Security Council (UNSC) amending and consolidating sanctions in relation to Somalia.

Section 6 of the *Charter of the United Nations Act 1945* (the Act) provides that the Governor-General may make regulations to give effect to decisions of the UNSC under Chapter VII of the Charter of the United Nations (the Charter) that 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.

The Principal Regulations implement Australia's obligations to impose sanctions in relation to Somalia, including an arms embargo and targeted financial sanctions, under UNSC resolutions 733 (1992), 751 (1992), 1356 (2001), 1425 (2002), 1744 (2007), 1844 (2008), 1846 (2008), 1851 (2008), 1916 (2010), 2036 (2012), 2060 (2012) and 2093 (2013).

Resolution 2111 was adopted under Chapter VII of the Charter on 24 July 2013 and the measures are binding on Australia pursuant to Article 25 of the Charter. Resolution 2111 consolidates into a single list the existing exemptions to the arms embargo and targeted financial sanctions imposed by resolution 733 (1992), as modified by subsequent resolutions. Paragraph 10(d) of resolution 2111 creates an additional exemption for the supply of weapons, military equipment or assistance for the support of the European Training Mission (EUTM) in Somalia.

The Regulation amends the Principal Regulations as necessary to give effect to the additional exemption created by paragraph 10(d) of resolution 2111, as well as to consolidate the existing exemptions and make technical amendments. Details of the Regulation are set out in the [Attachment](#).

No public consultation was undertaken in relation to the Regulation because it implements Australia's international legal obligations arising from decisions of the UNSC.

Resolution 2111 was adopted under Article 41 of Chapter VII of the Charter and the decisions therein are binding on Australia pursuant to Article 25 of that Charter. The relevant UNSC resolution can be found on the United Nations website (www.un.org).

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 (Sanctions–Somalia) Amendment Regulation 2013 (No 1)

The *Charter of the United Nations (Sanctions–Somalia) Amendment Regulation 2013 (No. 1)* is 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*.

The Regulation gives effect to decisions that the UNSC has made under Chapter VII of the Charter that 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.

The Regulation gives effect to resolution 2111, which consolidates into a single list the existing exemptions to the arms embargo and targeted financial sanctions in relation to Somalia imposed by resolution 733 (1992), as modified by subsequent resolutions. Paragraph 10(d) of resolution 2111 creates an additional exemption for the supply of weapons, military equipment or assistance for the support of the European Training Mission (EUTM) in Somalia.

The Regulation engages human rights by making technical amendments and an additional exemption to the arms embargo in relation to Somalia. The arms embargo has been and remains vital in addressing the grave humanitarian situation in Somalia and supporting the ongoing peace process, and helps to advance the protection of human rights by preventing the supply of arms or related matériel that could be used to violate human rights.

The Regulation advances human rights by giving effect to an additional exemption to the arms embargo in relation to Somalia to support the European Union Training Mission (EUTM), which plays an important role in promoting the human rights of the Somali people.

Authority: Section 6 of the *Charter of the United Nations Act 1945*

Details of the Charter of the United Nations (Sanctions–Somalia) Amendment Regulation 2013 (No. 1)

Section 1 – Name of Regulation

Section 1 provides that the name of the Regulation is the *Charter of the United Nations (Sanctions–Somalia) Amendment Regulation 2013 (No. 1)*.

Section 2 – Commencement

Section 2 provides that the Regulation commences on the day after it is registered.

Section 3 – Authority

Section 3 provides that the Regulation is made under the *Charter of the United Nations Act 1945*.

Section 4 – Schedule

Section 4 establishes that each instrument that is specified in a Schedule to the Regulation is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Regulation has effect according to its terms.

Schedule 1 – Amendments

[Item 1]

[Item 1] amends the reference to the Security Council in the definition of “designated person or entity” to remove the phrase “of the United Nations”, to align with the Act.

[Item 2]

[Item 2] amends the reference to the Security Council in the definitions of “Resolution 733” and “Resolution 751” to remove the phrase “of the United Nations”, to align with the Act.

[Item 3]

[Item 3] removes the definitions of “Resolution 1356”, “Resolution 1425” and “Resolution 1744”.

[Item 4]

[Item 4] amends the reference to the Security Council in the definition of “Resolution 1844” and “Resolution 1846” to remove the phrase “of the United Nations”, to align with the Act.

[Item 5]

[Item 5] removes the definitions of “Resolution 1851”, “Resolution 1916”, “Resolution 2060” and “Resolution 2093”.

[Item 6]

[Item 6] inserts a definition of “Resolution 2111”.

[Item 7]

[Item 7] replaces “in” with “by” in the definitions of “sanctioned service” and “sanctioned supply”, to give effect to drafting corrections.

[Item 8]

[Item 8] replaces “For” with “In”, to give effect to a drafting correction.

[Item 9]

[Item 9] revises the definition of “prohibited supply to a designated person or entity”, to give effect to a drafting improvement.

[Item 10]

[Item 10] makes a consequential amendment to the definition of “prohibited supply to a designated person or entity” to maintain consistency.

[Item 11]

[Item 11] replaces “For” with “In”, to give effect to a drafting correction.

[Item 12]

[Item 12] removes the note regarding strict liability.

[Item 13]

[Item 13] revises paragraph (b) of the definition of “authorised supply”, to give effect to a drafting improvement, including inserting a reference to the website for relevant resolutions of the Security Council.

[Item 14]

[Item 14] amends “authorised supply” to appear in bold type, to give effect to a drafting convention.

[Item 15]

[Item 15] consolidates the goods-related exemptions to the arms embargo and targeted financial sanctions in relation to Somalia into a table, outlining the purpose and any notification or approval requirements in each case. Item 6 in the table gives effect to the additional exemption for the support of the European Union Training Mission (EUTM) in Somalia, as provided by resolution 2111 (2013).

[Item 16]

[Item 16] removes the note regarding strict liability.

[Item 17]

[Item 17] revises paragraph (b) of the definition of “authorised service”, to give effect to a drafting improvement, including inserting a reference to the website for relevant resolutions of the Security Council.

[Item 18]

[Item 18] amends “authorised supply” to appear in bold type, to give effect to a drafting convention.

[Item 19]

[Item 19] consolidates the services-related exemptions to the arms embargo and targeted financial sanctions in relation to Somalia into a table, outlining the purpose and any notification or approval requirements in each case. Item 6 in the table gives effect to the

additional exemption for the support of the European Union Training Mission (EUTM) in Somalia, as provided by resolution 2111 (2013).

[Item 20]

[Item 20] updates paragraph (b) of subregulation 13(1) to refer to resolution 2111 and add a note.

[Item 21]

[Item 21] removes the note as a consequence of [Item 20].

[Item 22]

[Item 22] removes the note regarding strict liability.

[Item 23]

[Item 23] updates subregulation 13(1A) to refer to resolution 2111 (2013).

[Item 24]

[Item 24] updates paragraph (c) of subregulation 14(1) to refer to resolution 2111 and add a note.

[Item 25]

[Item 25] removes the note as a consequence of [Item 24].

[Item 26]

[Item 26] removes the note regarding strict liability.

[Item 27]

[Item 27] updates subregulation 14(1A) to refer to resolution 2111 (2013).

[Item 28]

[Item 28] italicises “Charter of the United Nations (Dealing with Assets) Regulations 2008” to give effect to a drafting convention.