

Charter of the United Nations (Sanctions—Yemen) Regulation 2014

Select Legislative Instrument No. 49, 2014

I, General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 15 May 2014

Peter Cosgrove

Governor‑General

By His Excellency’s Command

Julie Bishop

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—Yemen) Regulation 2014*.

2 Commencement

This regulation commences on the day after it is registered.

3 Authority

This regulation is made under the *Charter of the United Nations Act 1945*.

4 Definitions

In this regulation:

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

***Committee*** means the Committee established under paragraph 19 of Resolution 2140.

***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.

***designated person or entity*** means a person or entity designated by the Committee for paragraph 11 of Resolution 2140.

***Resolution 2140*** means Resolution 2140 (2014) of the Security Council, adopted on 26 February 2014.

Part 2—UN sanction enforcement laws

Note: See section 2B of the Act.

5 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 7.

(2) For an offence under section 27 of the Act that relates to a contravention of subsection (1), strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under section 7.

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

(3) Section 15.1 of the *Criminal Code* (Extended geographical jurisdiction—Category A) applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

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

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

6 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 7.

(2) For an offence under section 27 of the Act that relates to a contravention of subsection (1), strict liability applies to the circumstance that the use of, or dealing with, the asset is not authorised by a permit under section 7.

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

(3) Section 15.1 of the *Criminal Code* (Extended geographical jurisdiction—Category A) applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

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

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

7 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 5(1); or

(b) a use of, or dealing with, a controlled asset that would otherwise contravene subsection 6(1).

Note: Section 13A of the Act applies to a permit granted under this section.

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

(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 5 business 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 a legally required dealing, the Minister must notify the Committee of the application.

(6) If the application is for a required payment dealing, the Minister:

(a) must notify the Committee of the application; and

(b) may grant a permit only if 10 business days have passed since the notice was given.

(7) 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.

(8) 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 section.

Part 3—Miscellaneous

8 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.