

EXPLANATORY STATEMENT

Select Legislative Instrument No. 157, 2014

Autonomous Sanctions Act 2011

Autonomous Sanctions Amendment (Fiji) Regulation 2014

Section 28 of the *Autonomous Sanctions Act 2011* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Autonomous Sanctions Regulations 2011* (the Principal Regulations) facilitate the conduct of Australia's relations with certain countries, and with specific entities or persons outside Australia, through the imposition of autonomous sanctions in relation to those countries, or targeting those entities or persons.

The Principal Regulations impose, inter alia, an autonomous sanctions regime in relation to Fiji by prohibiting the supply of arms or related materiel, and related services, to Fiji without a sanctions permit; and by according the Minister for Foreign Affairs the capacity to designate Fijian persons or entities for the purposes of targeted financial sanctions, and to declare Fijian persons for the purposes of travel restrictions.

The proposed *Autonomous Sanctions Amendment (Fiji) Regulation 2014* (the Regulation) would remove all autonomous sanctions measures that Australia implements in relation to Fiji, following Fiji's successful elections on 17 September 2014.

In accordance with subsection 18 (2) of the *Legislative Instruments Act 2003*, no public consultation was undertaken in relation to the Regulation, as it is an instrument that is of minor regulatory impact and that does not substantially alter existing arrangements. The Regulation is also an instrument that is required as a matter of urgency. The Department of Foreign Affairs and Trade conducts regular outreach to the Australian business community to explain sanction laws implementing Australia's autonomous sanctions.

Details of the Regulation are set out in the Attachment.

Statement of Compatibility with Human Rights

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

Autonomous Sanctions Amendment (Fiji) Regulation 2014

This Regulation 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*.

Overview of the Legislative Instrument

The Regulation removes autonomous sanctions measures that Australia implements in relation to Fiji.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

By removing sanctions in relation to Fiji, the Regulation promotes human rights that may have been engaged by the Principal Regulation. In particular, Australia's autonomous sanctions in relation to Fiji may have limited the right to non-discrimination, privacy and freedom of movement of certain individuals in Fiji (which the Government assessed as permissible on the basis that it was necessary for the protection of the rights and freedoms of others). This limitation would no longer apply upon the repeal of the elements of the Principle Regulation that implement sanctions in relation to Fiji.

Moreover, the purpose of the Principal Regulations as they relate to Fiji is, inter alia, to place pressure on key decision makers in Fiji to allow the full enjoyment of the rights and freedoms referred to in subsection 3 (1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*. Following successful elections in Fiji, the Government has decided to normalise the bilateral relationship between Australia and Fiji by lifting remaining sanctions. The Regulation underscores the purpose of the Principal Regulations as a policy tool to encourage democracy, human rights and better governance in Fiji.

Conclusion

This Regulation is compatible with human rights as it does not raise any human rights issues.

Details of the *Autonomous Sanctions Amendment (Fiji) Regulation 2014*

Section 1 – Name of Regulation

Section 1 provides that the name of the Regulation is the *Autonomous Sanctions Amendment (Fiji) Regulation 2014*.

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 *Autonomous Sanctions Act 2011*.

Section 4 – Schedule

Schedule 4 provides 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 this instrument has effect according to its terms.

Schedule 1 – Amendments

Item [1] – Subregulation 4(2) (table item 1)

Item [1] removes Fiji from the application of the definition of a ‘sanctioned supply’.

Item [2] – Subregulation 5(4) (table item 1)

Item [2] removes Fiji from the application of the definition of a ‘sanctioned service’.

Item [3] – Subregulation 6(1) (table item 3)

Item [3] removes the capacity of the Minister for Foreign Affairs to designate Fijian persons or entities for the purposes of targeted financial sanctions, and to declare Fijian persons for the purposes of travel restrictions, under the Principal Regulations.