

EXPLANATORY STATEMENT

Select Legislative Instrument No. 192, 2014

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

Charter of the United Nations Legislation Amendment (Sanctions – 2014 Measures No. 2) Regulation 2014

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 United Nations Security Council (UNSC) under Chapter VII of the Charter of the United Nations (the Charter) that Australia is required to carry out under Article 25 of the Charter and in so far as those decisions require Australia to apply measures not involving the use of armed force.

The purpose of the *Charter of the United Nations Legislation Amendment (Sanctions—2014 Measures No. 2) Regulation 2014* (the Amendment Regulation) is to amend the *Charter of the United Nations (Sanctions – Central African Republic) Regulation 2014* (the CAR Regulation); the *Charter of the United Nations (Sanctions – Libya) Regulations 2011* (the Libya Regulations); and the *Charter of the United Nations (Sanctions – Yemen) Regulation 2014* (the Yemen Regulation) to implement recent decisions of the United Nations Security Council (UNSC) modifying existing sanctions in relation to the Central African Republic (CAR), Libya and Yemen, in accordance with Australia's international obligations.

The CAR Regulation gives effect in Australia to sanctions obligations arising from UNSC resolution 2127 (2013) and its successors. UNSC resolution 2134, adopted on 28 January 2014, imposed targeted financial sanctions in relation to persons or entities designated by the CAR Sanctions Committee. This decision was implemented by the *Charter of the United Nations Legislation Amendment (Central African Republic and Yemen) Regulation 2014*, which amended the CAR Regulation. The Amendment Regulation amends the definition of 'controlled asset' in the CAR Regulation to provide for the freezing of assets by persons or entities acting on behalf of or at the direction of a designated person or entity; or an entity owned or controlled by a designated person or entity, as mandated by resolution 2134. The Amendment Regulation updates the definition of 'controlled asset' in the CAR Regulation to reflect current UNSC practice.

The Libya Regulations give effect in Australia to sanctions obligations arising from UNSC resolution 1970 (2011) and its successors. Resolution 2174 (2014), adopted on 27 August 2014, strengthens the arms embargo in relation to Libya by requiring that a sanctioned supply to Libya, other than for non-lethal military equipment, must be approved in advance by the Libya Sanctions Committee. The Amendment Regulation amends the Libya Regulations to require that the Libya Committee approve in advance the issue of a permit allowing a supply of arms or related materiel intended solely for security or disarmament assistance to the Libyan government.

The Yemen Regulation gives effect in Australia to sanctions obligations arising from UNSC resolution 2140 (2014), which imposed targeted financial sanctions in relation to persons or entities designated by the Yemen Sanctions Committee. This decision was implemented by the *Charter of the United Nations Legislation Amendment (Central African Republic and Yemen) Regulation 2014*, which amended the Yemen Regulation. The Amendment Regulation amends the definition of ‘controlled asset’ in the Yemen Regulation to provide for the freezing of assets by persons or entities acting on behalf of or at the direction of a designated person or entity; or an entity owned or controlled by a designated person or entity, as mandated by resolution 2140. The Amendment Regulation updates the definition of ‘controlled asset’ in the Yemen Regulation to reflect current UNSC practice.

No public consultation was undertaken in relation to the Amendment Regulation, as it implements Australia’s international legal obligations arising from decisions of the UNSC. The Department of Foreign Affairs and Trade conducts regular outreach to the Australian business community to explain Australian sanctions laws implementing UNSC sanctions.

Resolutions 1970, 2127, 2134, 2140 and 2174 were adopted under Article 41 of Chapter VII of the Charter and the measures are binding on Australia pursuant to Article 25 of that Charter. The relevant UNSC resolutions can be found on the UN website (www.un.org).

Details of the Amendment 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

Charter of the United Nations Legislation Amendment (Sanctions – 2014 Measures No. 2) Regulation 2014

The *Charter of the United Nations Legislation Amendment (Sanctions – 2014 Measures No. 2) Regulation 2014* (the Amendment 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*.

The purpose of the Amendment Regulation is to amend the *Charter of the United Nations (Sanctions – Central African Republic) Regulation 2014* (the CAR Regulation); the *Charter of the United Nations (Sanctions – Libya) Regulations 2011* (the Libya Regulations); and the *Charter of the United Nations (Sanctions – Yemen) Regulation 2014* (the Yemen Regulation) to modify existing sanctions in accordance with Australia's international obligations.

The Amendment Regulation protects human rights by ensuring that persons and entities that violate measures imposed by UNSC resolutions will be subject to the UNSC sanctions measures.

ATTACHMENT

Details of the Charter of the United Nations Legislation Amendment (Sanctions – 2014 Measures No. 2) Regulation 2014

Section 1 – Name of Regulation

Section 1 would provide that the name of the regulation is the *Charter of the United Nations Legislation Amendment (Sanctions – 2014 Measures No. 2) Regulation 2014*.

Section 2 – Commencement

Section 2 would provide that the regulation commences on the day after it is registered.

Section 3 – Authority

Section 3 would provide that the regulation is made under the *Charter of the United Nations Act 1945*.

Section 4 – Schedule(s)

Section 4 would provide that each instrument that is specified in a Schedule to the regulation is amended or repealed as set out in the Schedule.

Schedule 1 – Amendments

Charter of the United Nations (Sanctions – Central African Republic) Regulation 2014

Item [1] – Section 4, amended definition of ‘controlled asset’

Item [1] would amend the definition of ‘controlled asset’ to reflect current UNSC practice.

Charter of the United Nations (Sanctions – Libya) Regulations 2011

Item [2] – Paragraph 7(2)(e)

Item [2] would amend the notification requirements for a sanctioned supply intended solely for security or disarmament assistance to the Libyan government.

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

Item [3] – Section 4, amended definition of ‘controlled asset’

Item [3] would amend the definition of ‘controlled asset’ to reflect current UNSC practice.