

EXPLANATORY STATEMENT

Select Legislative Instrument No. 69, 2015

Autonomous Sanctions Act 2011

Autonomous Sanctions Amendment (Myanmar) Regulation 2015

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 Autonomous Sanctions 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 Autonomous Sanctions Regulations impose, inter alia, an autonomous sanctions regime in relation to Burma (Myanmar) by prohibiting the supply of arms or related materiel, and related services, to Burma without a sanctions permit; and by according the Minister for Foreign Affairs the capacity to designate Burmese persons or entities for the purposes of targeted financial sanctions, and to declare Burmese persons for the purposes of travel restrictions.

The proposed *Autonomous Sanctions Amendment (Myanmar) Regulation 2015* (the Amendment Regulation) would reduce the scope of activities that fall within the definition of sanctioned service under the Autonomous Sanctions Regulations by removing reference to 'a military activity' as it relates to Burma. A sanctioned service, as it relates to Burma, would be limited to technical advice, assistance or training; or financial assistance; or a financial service; or another service, if it assists with or is provided in relation to the manufacture, maintenance or use of an export sanctioned good for Myanmar.

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 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 (Myanmar) Regulation 2015

The *Autonomous Sanctions Amendment (Myanmar) Regulation 2015* (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*.

Overview of the Legislative Instrument

The Amendment Regulation would reduce the scope of activities that fall within the definition of sanctioned service under the Autonomous Sanctions Regulations by removing reference to ‘a military activity’ as it relates to Burma. A sanctioned service, as it relates to Burma, would be limited to technical advice, assistance or training; or financial assistance; or a financial service; or another service, if it assists with or is provided in relation to the manufacture, maintenance or use of an export sanctioned good for Myanmar.

Human rights implications

Through the recalibration of autonomous sanctions as they relate to Burma, the Amendment Regulation promotes human rights that may have been engaged by the Autonomous Sanctions Regulations. Further, Australia’s autonomous sanctions in relation to Burma continue to impose sanctions the object of which is to place pressure on key decision makers in Burma to allow the full enjoyment of the rights and freedoms referred to in subsection 3 (1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Promoting, and where necessary, having robust discussions about human rights and democracy in Burma would remain a central element of Australia’s engagement with Burma.

ATTACHMENT

Details of the *Autonomous Sanctions Amendment (Myanmar) Regulation 2015*

Section 1 – Name of Regulation

Section 1 provides that the name of the regulation is the *Autonomous Sanctions Amendment (Myanmar) Regulation 2015*.

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(s)

Section 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

Autonomous Sanctions Regulations 2011

Item [1] – Subregulation 5(4) (cell at table item 3, column headed “Activity”) repeal and substitute the cell

Item [1] repeals the cell and substitutes it with a cell that states: ‘The manufacture, maintenance or use of an export sanctioned good for Myanmar’.