

Explanatory Statement

Select Legislative Instrument No. 142, 2015

Charter of the United Nations Act 1945

Charter of the United Nations (Dealing with Assets) Amendment (South Sudan) Regulation 2015

The purpose of the *Charter of the United Nations (Dealing with Assets) Amendment (South Sudan) Regulation 2015* (the Amendment Regulation) is to update the *Charter of the United Nations (Dealing with Assets) Regulations 2008* (the Principal Regulations) in order to bring them into conformity with decisions of the United Nations Security Council (UNSC) resolution 2206. Resolution 2206 was adopted under Chapter VII of the United Nations Charter (the Charter) on 3 March 2015 and the measures are binding on Australia pursuant to Article 25 of the Charter. Resolution 2206 imposes targeted financial sanctions in relation to South Sudan.

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 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 purpose of the Principal Regulations is to implement Australia's obligations to freeze assets and prevent assets being made available to all persons and entities designated by the UNSC as being subject to such measures. Regulation 4 of the Principal Regulations includes a definition of "Sanctions Regulations" which lists all relevant regulations made under the Act to which the Principal Regulations are to apply.

The Amendment Regulation aims to ensure the "Sanctions Regulations" definition in the Principal Regulations apply to the *Charter of the United Nations (Sanctions - South Sudan) Regulation 2015* by including this regulation in those listed at regulation 4 of the Principal Regulations. The Amendment Regulation would also clarify the note to sub-regulation 30(2) to make clear that assets may be frozen pursuant to "Part 4 of the Act", rather than under "Sanctions Regulations".

Details of the Amendment Regulation are set out in the [Attachment](#).

No public consultation was undertaken in relation to the Amendment Regulation because 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 sanction laws implementing UNSC sanctions.

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 (Dealing with Assets) Amendment (South Sudan) Regulation 2015

The *Charter of the United Nations (Dealing with Assets) Amendment (South Sudan) 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*.

The purpose of the Amendment Regulation is to update the *Charter of the United Nations (Dealing with Assets) Regulations 2008* in order to bring them into conformity with decisions of the United Nations Security Council (UNSC) resolution 2206.

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.

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

ATTACHMENT

Details of the Charter of the United Nations (Dealing with Assets) Amendment (South Sudan) Regulation 2015

Section 1 – Name of Regulation

Section 1 provides that the name of the Regulation is the *Charter of the United Nations (Dealing with Assets) Amendment (South Sudan) Regulation 2015*.

Section 2 – Commencement

Section 2 provides that the Regulation commences 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 – Schedules

Section 4 provides 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 (Dealing with Assets) Regulations 2008

Item [1] - Regulation 4 (after paragraph (k) of the definition of *Sanctions Regulations*)

Item [1] amends the definition of ‘Sanctions Regulations’ to include reference to the *Charter of the United Nations (Sanctions – South Sudan) Regulation 2015* to give effect to the decisions of the UNSC in resolution 2206.

Item [2] – Subregulation 30(2) (note)

Item [2] amends the note to subregulation 30(2) to refer to “Part 4 of the Act” instead of “Sanctions Regulations” to clarify that subregulation 30(2) relates to permissible dealings for assets frozen under Part 4 of the Act.