



Charter of the United Nations (Sanctions—Iran) Regulation 2016

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 05 May 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Julie Bishop
Minister for Foreign Affairs

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Part 1—Preliminary

1 Name

This is the *Charter of the United Nations (Sanctions—Iran) Regulation 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	16 July 2016

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

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

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In this instrument:

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

arms or related matériel includes:

- (a) weapons; and
- (b) ammunition; and
- (c) military vehicles and equipment; and
- (d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and
- (e) paramilitary equipment.

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Australian aircraft has the same meaning as in the *Criminal Code*.

Australian ship has the same meaning as in the *Criminal Code*.

Committee means the Committee that was established by paragraph 18 of Resolution 1737.

controlled asset means an asset that is owned or controlled by:

- (a) a designated person or entity; or
- (b) a person or entity acting on behalf of or at the direction of a designated person or entity; or
- (c) an entity owned or controlled by a designated person or entity, including through illicit means.

designated person or entity means a person or entity:

- (a) included, as at 16 January 2016, on the list established and maintained by the Committee pursuant to Resolution 1737, except for:
 - (i) persons or entities specified in the attachment to Annex B of Resolution 2231; or
 - (ii) a person or entity delisted by the Security Council; or
- (b) designated by the Security Council for paragraph 6(c) of Annex B of Resolution 2231.

export sanctioned goods has the meaning given by section 6.

goods includes items, materials, equipment and technology.

import sanctioned goods has the meaning given by section 7.

INFCIRC/254/Part 1 means the International Atomic Energy Agency Information Circular “INFCIRC/254/Part 1” as in force from time to time.

INFCIRC/254/Part 2 means the International Atomic Energy Agency Information Circular “INFCIRC/254/Part 2” as in force from time to time.

JCPOA means the Joint Comprehensive Plan of Action (Security Council document S/20115/544) attached as Annex A to Resolution 2231.

paramilitary equipment means any of the following:

- (a) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes;
- (b) body armour, including:
 - (i) bullet-resistant apparel; and
 - (ii) bullet-resistant pads; and
 - (iii) protective helmets;
- (c) handcuffs, leg-irons and other devices used for restraining prisoners;
- (d) riot protection shields;
- (e) whips;
- (f) parts and accessories designed or adapted for use in, or with, equipment mentioned in paragraphs (a) to (e).

permissible goods means the following:

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- (a) goods mentioned in B.1 of INFCIRC/254/Part 1—provided that the goods are for light water reactors;
 - (b) low-enriched uranium mentioned in A.1.2 of INFCIRC/254/Part 1—provided that the low-enriched uranium is incorporated in assembled nuclear fuel elements for light water reactors;
 - (c) goods set out in the Annex to INFCIRC/254/Part 2—provided that the goods are for exclusive use in light water reactors;
 - (d) goods directly related to one or more of the following:
 - (i) the necessary modification of 2 cascades at the Fordow facility for stable isotope production;
 - (ii) the export of Iran’s enriched uranium in excess of 300 kilograms in return for natural uranium;
 - (iii) the modernisation of the Arak reactor based on the conceptual design agreed in the JCPOA.

Resolution 1737 means Resolution 1737 (2006) of the Security Council, adopted on 23 December 2006.

Resolution 1747 means Resolution 1747 (2007) of the Security Council, adopted on 24 March 2007.

Resolution 1803 means Resolution 1803 (2008) of the Security Council, adopted on 3 March 2008.

Resolution 1929 means Resolution 1929 (2010) of the Security Council, adopted on 9 June 2010.

Resolution 2231 means Resolution 2231 (2015) of the Security Council, adopted on 20 July 2015.

S/2015/546 means Security Council document S/2015/546.

sanctioned service has the meaning given by section 9.

sanctioned supply has the meaning given by section 8.

Security Council means the United Nations Security Council.

Note: In this instrument:

- (a) the **Department** is the Department of Foreign Affairs and Trade; and
- (b) the **Minister** is the Minister for Foreign Affairs; and
- (c) **asset** has the meaning given in section 2 of the Act.

6 Export sanctioned goods

- (1) The following are **export sanctioned goods**:
 - (a) all goods set out in INFCIRC/254/Part 1;
 - (b) all goods set out in INFCIRC/254/Part 2;
 - (c) all goods set out in S/2015/546;
 - (d) goods specified in a determination under subsection (2);
 - (e) battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile systems

Section 7

as defined for the purpose of the United Nations Register of Conventional Arms;

(f) related matériel (including spare parts) of goods specified in paragraph (e).

(2) If the Minister is satisfied that specified goods could, if supplied to Iran, contribute to:

(a) reprocessing or enrichment-related or heavy water-related activities inconsistent with the JCPOA; or

(b) the development of nuclear weapon delivery systems;

the Minister may, by legislative instrument, determine that the goods are export sanctioned goods.

7 Import sanctioned goods

Arms and related matériel, whether or not they originate in Iran, are *import sanctioned goods*.

8 Sanctioned supply

A person makes a *sanctioned supply* if:

(a) the person supplies, sells or transfers goods to another person; and

(b) the goods are export sanctioned goods; and

(c) as a direct or indirect result of the supply, sale or transfer the goods are transferred to Iran, or are incorporated into goods that are transferred to Iran.

9 Sanctioned service

Each of the following is a provision of a *sanctioned service*:

(a) the provision to Iran of:

(i) technical assistance or training; or

(ii) financial assistance; or

(iii) investment, brokering or other financial services;

related to the supply, sale, transfer, manufacture or use of export sanctioned goods;

(b) the transfer of financial resources or financial services related to the supply, sale, transfer, manufacture or use of export sanctioned goods for the benefit of Iran;

(c) the provision to Iran of any technology related to the supply, sale, transfer, manufacture or use of export sanctioned goods set out in S/2015/546 or determined under paragraph 6(2)(b).

Part 2—UN sanction enforcement laws

10 Prohibitions relating to a sanctioned supply

- (1) A person contravenes this section if:
 - (a) the person makes a sanctioned supply; and
 - (b) the sanctioned supply is not an authorised supply.
- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

Note: This has the effect that the offence has extraterritorial operation.
- (3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this section if the person uses the services of an Australian ship or an Australian aircraft to transport export sanctioned goods in the course of, or for the purpose of, making a sanctioned supply that is not an authorised supply.
- (4) A body corporate contravenes this section if:
 - (a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and
 - (b) the other body corporate or entity makes a sanctioned supply; and
 - (c) the sanctioned supply is not an authorised supply.

- (5) In this section:

authorised supply means a sanctioned supply that is authorised by:

- (a) a permit under section 11; or
- (b) if the supply, sale or transfer takes place in or from a foreign country—a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 2231.
- (6) A defendant to a charge under section 27 of the Act that relates to subsection (1), (3) or (4) bears an evidential burden in relation to the matter in subparagraph (b)(i) of the definition of ***authorised supply*** in subsection (5).
- (7) For paragraph (b) of the definition of ***authorised supply*** in subsection (5), a permit is taken not to have been properly granted if the prosecution shows that the permit was granted on the basis of false or misleading information provided by any person, or of corrupt conduct by any person.

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

11 Permit to make a sanctioned supply

- (1) The Minister may grant a person a permit authorising the making of a sanctioned supply of goods if:

Section 12

- (a) the goods are permissible goods and all of the following apply:
 - (i) the requirements of the guidelines in INFCIRC/254/Part 1 or INFCIRC/254/Part 2, as appropriate, have been met;
 - (ii) Australia has obtained a right to verify the end-use and end-use location for any goods that are supplied;
 - (iii) Australia is in a position to exercise that right effectively; or
- (b) all of the following apply:
 - (i) the goods are set out INFCIRC/254/Part 1 or INFCIRC/254/Part 2, or have been determined by the Minister under paragraph 6(2)(a);
 - (ii) the supply of the goods has been approved in advance by the Security Council;
 - (iii) the requirements of the guidelines in INFCIRC/254/Part 1 or INFCIRC/254/Part 2, as appropriate, have been met;
 - (iv) Australia has obtained, and is in a position to exercise effectively, a right to verify the end use and end use location of the goods; or
- (c) the goods are determined under subsection 6(2) and the Minister has determined that the supply is not a supply that could contribute to reprocessing or enrichment-related or heavy water-related activities inconsistent with the JCPOA, or to the development of nuclear weapons delivery systems; or
- (d) all of the following apply:
 - (i) the goods are set out in S/2015/546 or determined under paragraph 6(2)(b);
 - (ii) the supply of the goods has been approved in advance by the Security Council;
 - (iii) the contract for delivery of the goods includes appropriate end-user guarantees;
 - (iv) the Minister has obtained a commitment from the Government of Iran not to use the goods for the development of nuclear weapon delivery systems; or
- (e) the goods are covered by paragraph 6(1)(e) and the supply has been approved in advance by the Security Council.

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

- (2) A permit is subject to any conditions specified in the permit.
- (3) If the Minister grants a permit under paragraph (1)(a) or (b), he or she must take steps to ensure that, within 10 days after the supply concerned, notification of the supply is given to the Security Council and the International Atomic Energy Agency.

12 Prohibitions relating to import sanctioned goods

- (1) A person contravenes this section if:
 - (a) the person procures import sanctioned goods from Iran or from a person or entity in Iran; and
 - (b) the procurement is not an authorised procurement.

Section 13

- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

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

- (3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this section if the person uses the services of an Australian ship or an Australian aircraft to transport import sanctioned goods in the course of, or for the purpose of, procuring the goods from Iran or from a person or entity in Iran and the procurement is not an authorised procurement.
- (4) A body corporate contravenes this section if:
- (a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and
 - (b) the other body corporate or entity procures import sanctioned goods from Iran or a person or entity in Iran; and
 - (c) the procurement is not an authorised procurement.

- (5) In this section:

authorised procurement means a procurement of import sanctioned goods that is authorised by:

- (a) a permit under section 13; or
 - (b) if the procurement takes place in a foreign country—a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 2231.
- (6) A defendant to a charge under section 27 of the Act that relates to subsection (1), (3) or (4) bears an evidential burden in relation to the matter in subparagraph (b)(i) of the definition of **authorised procurement** in subsection (5).
- (7) For paragraph (b) of the definition of **authorised procurement** in subsection (5), a permit is taken not to have been properly granted if the prosecution shows that the permit was granted on the basis of false or misleading information provided by any person, or of corrupt conduct by any person.

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

13 Permit to procure import sanctioned goods

- (1) The Minister may, on application and with the approval of the Security Council, grant a person a permit authorising the procurement of import sanctioned goods.

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

- (2) A permit is subject to any conditions specified in the permit.

14 Prohibitions relating to the provision of sanctioned services

- (1) A person contravenes this section if:

Section 14

- (a) the person provides a sanctioned service; and
- (b) it is not an authorised service; and
- (c) if it is provided in relation to a sanctioned supply—the supply is not an authorised supply.

- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

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

- (3) A body corporate contravenes this section if:
- (a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and
 - (b) the other body corporate or entity provides a sanctioned service; and
 - (c) the sanctioned service is not an authorised service; and
 - (d) if the sanctioned service is provided in relation to a sanctioned supply—the supply is not an authorised supply.

- (4) In this section:

authorised service means a sanctioned service that is authorised by:

- (a) a permit under section 15; or
- (b) if the service is provided in a foreign country—a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 2231.

authorised supply means a sanctioned supply that is authorised by:

- (a) a permit under section 11; or
- (b) if the supply, sale or transfer takes place in or from a foreign country—a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 2231.

- (5) A defendant to a charge under section 27 of the Act that relates to subsection (1) or (3) bears an evidential burden in relation to:

- (a) the matter in subparagraph (b)(i) of the definition of **authorised service** in subsection (4); and
- (b) the matter in subparagraph (b)(i) of the definition of **authorised supply** in subsection (4).

- (6) For paragraph (b) of the definitions of **authorised service** and of **authorised supply** in subsection (4), a permit is taken not to have been properly granted if the prosecution shows that the permit was granted on the basis of false or misleading information provided by any person, or of corrupt conduct by any person.

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

15 Permit to provide a sanctioned service

- (1) The Minister may grant a person a permit authorising the provision of a sanctioned service if:
 - (a) the service relates to goods that are permissible goods; or
 - (b) the service relates to goods determined under subsection 6(2) and the Minister has determined that the service is not a service that could contribute to:
 - (i) reprocessing or enrichment-related or heavy water-related activities inconsistent with the JCPOA; or
 - (ii) the development of nuclear weapons delivery systems; or
 - (c) the provision of the service has been approved in advance by the Security Council and, if the service is provided in relation to goods set out in S/2015/546 or determined under paragraph 6(2)(b), that the contract for delivery of the service includes appropriate end-user guarantees.

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

- (2) The Minister must not grant a permit unless satisfied that the requirements of the guidelines in INFCIRC/254/Part 1 or INFCIRC/254/Part 2, as appropriate, have been met in relation to the sanctioned service.
- (3) A permit is subject to any conditions specified in the permit.

16 Prohibition relating to dealings with designated person or entity

- (1) A person contravenes this section if:
 - (a) the person directly or indirectly makes an asset available to, or for the benefit of:
 - (i) a designated person or entity; or
 - (ii) a person or entity acting on behalf of or at the direction of a designated person or entity; or
 - (iii) an entity owned or controlled by a designated person or entity, including through illicit means; and
 - (b) the making available of the asset is not authorised by a permit under section 18.
- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

Note 1: Subsection (2) has the effect that the offence has extraterritorial application.

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

17 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

Section 18

- (iii) facilitates the use of, or the dealing with, the asset; and
- (c) the use or dealing is not authorised by a permit under section 18.

- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

Note 1: Subsection (2) has the effect that the offence has extraterritorial application.

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

18 Permit for assets and controlled assets

- (1) The Minister may grant a person a permit authorising:
- (a) the making available of an asset or the use of, or dealing with, the asset so far as the availability, use or dealing is necessary for:
 - (i) civil nuclear cooperation projects described in Annex III of the JCPOA; or
 - (ii) activities directly related to the items specified in paragraph 2 of Annex B to the JCPOA, or to any other activity required for the implementation of the JCPOA; or
 - (b) a basic expense dealing, a legally required dealing, a contractual dealing, a required payment dealing or an extraordinary expense dealing within the meaning of regulation 5 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008*.

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

- (2) The permit is subject to any conditions specified in the permit.
- (3) A permit for activities covered by paragraph (1)(a) must not be granted without the approval of the Security Council.
- (4) A permit for a basic expense dealing must not be granted unless the Minister:
- (a) has notified the Security Council of the intention to grant the permit; and
 - (b) within 5 working days of the notification, the Security Council has not advised against granting a permit to the applicant.
- (5) A permit for a legally required dealing must not be granted unless the Minister has notified the Security Council of the intention to grant the permit.
- (6) A permit for a required payment dealing:
- (a) must not relate to a sanctioned supply, a sanctioned service or a procurement of import sanctioned goods from Iran or from a person or entity in Iran (except as permitted under paragraph (1)(a)); and
 - (b) must not allow for a payment to be directly or indirectly received by a designated person or entity; and
 - (c) must not be granted unless:
 - (i) the Minister has notified the Security Council of the intention to grant the permit; and
 - (ii) 10 working days have passed since notification was given.

- (7) A permit for an extraordinary expense dealing must not be granted without the approval of the Security Council.

Note: Part 2 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008* applies to this instrument.

19 Prohibition relating to selling or making available an interest in sensitive commercial activities

- (1) A person contravenes this section if:
- (a) the person sells, or otherwise makes available, an interest in a sensitive commercial activity to:
 - (i) Iran; or
 - (ii) an Iranian national; or
 - (iii) an entity incorporated in Iran or subject to Iranian jurisdiction; or
 - (iv) a person or entity acting on behalf of, or at the discretion of, Iran, an Iranian national, or an entity incorporated in Iran or subject to Iranian jurisdiction; or
 - (v) an entity owned or controlled by Iran, an Iranian national, or an entity incorporated in Iran or subject to Iranian jurisdiction; and
 - (b) the sale or making available of the interest is not covered by a permit granted under section 20.

- (2) In this section:

sensitive commercial activity means a commercial activity:

- (a) involving uranium mining; or
- (b) involving uranium production; or
- (c) involving the use of nuclear materials or technology listed in INFCIRC/254/Part 1; or
- (d) related to the supply, sale, transfer, manufacture or use of export sanctioned goods set out in S/2015/546 or determined under paragraph 6(2)(b); or
- (e) related to any activity undertaken by Iran related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology.

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

20 Permit relating to selling or making available an interest in sensitive commercial activities

- (1) The Minister may, on application and with the approval of the Security Council, grant a person a permit authorising the sale or making available of an interest in a sensitive commercial activity.

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

- (2) A permit is subject to any conditions specified in the permit.

Part 3—Miscellaneous

21 No claim for breach of contract or failure to perform transaction

- (1) This section applies to:
 - (a) the Government of Iran; and
 - (b) a person who is an Iranian national or subject to Iranian jurisdiction; and
 - (c) a designated person or entity; and
 - (d) a person able to claim through, or for the benefit of, the Government of Iran or a person or entity mentioned in paragraph (b) or (c).
- (2) Despite any provision of a law of the Commonwealth, or of a State or Territory, no claim, action or demand may be made or taken against a person for a breach of contract or a failure to perform a transaction if the performance of the contract or transaction was prevented by reason of the measures imposed by Resolution 1737, Resolution 1747, Resolution 1803, Resolution 1929 or Resolution 2231.

22 Delegations by Minister

- (1) The Minister may delegate the Minister's powers and functions under this instrument (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.

Schedule 1—Repeals

Charter of the United Nations (Sanctions—Iran) Regulations 2008

1 The whole of the Regulations

Repeal the Regulations.