

Explanatory Statement

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2019 (No. 2)

The *Charter of the United Nations Act 1945* (the Act) provides legislative approval for the Charter of the United Nations (the Charter) in Australian law. United Nations Security Council (UNSC) decisions made under Chapter VII of the Charter relate to action with respect to threats to the peace, breaches of the peace, and acts of aggression. Article 25 of the Charter requires United Nations Member States to accept and carry out the decisions of the UNSC.

The purpose of the *Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2019 (No. 2)* (the Amendment Declaration) is to make a consequential amendment to the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008* to reflect the making of the *Charter of the United Nations Legislation Amendment (2019 Measures No. 1) Regulations 2019* (the Regulations).

Subsections 27(1) and (5) of the *Charter of the United Nations Act 1945* (the Act) provide, respectively, that individuals and bodies corporate commit an offence if they engage in conduct that contravenes a UN sanction enforcement law. The term ‘UN sanction enforcement law’ is defined in section 2 of the Act to mean a provision that is specified in an instrument under subsection 2B(1) of the Act. Section 2B provides that the Minister may, by legislative instrument, specify a provision of a law of the Commonwealth to be a UN sanction enforcement law to the extent that the provision gives effect to decisions that the UNSC has made under Chapter VII of the *Charter of the United Nations* (Charter), which Australia is required to carry out pursuant to Article 25 of the Charter.

The Amendment Declaration gives effect to certain provisions of United Nations Security Council Resolution (UNSCR) 2444 (2018). Item 1 of Schedule 1 of the Amendment Declaration removes reference to the *Charter of the United Nations (Sanctions—Eritrea) Regulations 2010* as a UN sanction enforcement law, in response to the lifting of of UN-mandated sanctions in relation to Eritrea pursuant to UNSCR 2444. The preamble to UNSCR 2444 notes that the Security Council was acting under Chapter VII of the Charter.

No public consultation was undertaken under section 17 of the *Legislation Act 2003* before this instrument was made as it represents a minor amendment. In addition, the instrument implements Australia’s international legal obligations arising from a decision of the United Nations Security Council.

The Amendment Declaration 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* as set out in Attachment A.

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

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 (UN Sanction Enforcement Law) Amendment
Declaration 2019 (No. 2) (the Amendment Declaration)*

This legislative instrument 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

The *Charter of the United Nations Act 1945* (the Act) provides legislative approval for the Charter of the United Nations (the Charter) in Australian law. United Nations Security Council (UNSC) decisions made under Chapter VII of the Charter relate to action with respect to threats to the peace, breaches of the peace, and acts of aggression. Article 25 of the Charter requires United Nations Member States to accept and carry out the decisions of the UNSC.

The purpose of the *Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2019 (No. 2)* (the Amendment Declaration) is to make a consequential amendment to the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008* to reflect the making of the *Charter of the United Nations Legislation Amendment (2019 Measures No. 1) Regulations 2019* (the Regulations).

Subsections 27(1) and (5) of the *Charter of the United Nations Act 1945* (the Act) provide, respectively, that individuals and bodies corporate commit an offence if they engage in conduct that contravenes a UN sanction enforcement law. The term ‘UN sanction enforcement law’ is defined in section 2 of the Act to mean a provision that is specified in an instrument under subsection 2B(1) of the Act. Section 2B provides that the Minister may, by legislative instrument, specify a provision of a law of the Commonwealth to be a UN sanction enforcement law to the extent that the provision gives effect to decisions that the UNSC has made under Chapter VII of the *Charter of the United Nations* (Charter), which Australia is required to carry out pursuant to Article 25 of the Charter.

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Human rights compatibility

This legislative instrument is a consequential amendment to the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008* to remove reference to the *Charter of the United Nations (Sanctions—Eritrea) Regulations 2010*, which are being repealed in response to the lifting of sanctions in relation to Eritrea by the UNSC. This amendment does not engage human rights issues.

Conclusion

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