



Statutory Rules 1994 No. 448¹

Charter of the United Nations (Sanctions— Republic of Bosnia and Herzegovina) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,
acting with the advice of the Federal Executive Council, make the
following Regulations under the *Charter of the United Nations Act 1945*.

Dated 20 December 1994.

BILL HAYDEN
Governor-General

By His Excellency's Command,

GARETH EVANS
Minister for Foreign Affairs

Citation

1. These Regulations may be cited as the Charter of the
United Nations (Sanctions—Republic of Bosnia and Herzegovina)
Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

Objects of these Regulations

2. The objects of these Regulations are to give effect in Australia to Resolution 942 in discharge of Australia's obligations under Article 25 of the Charter of the United Nations.

Interpretation

3. (1) In these Regulations, unless the contrary intention appears:

“Australia” includes the external Territories;

“authorised person” means:

- (a) the Minister; or
- (b) an officer of the Department of Foreign Affairs and Trade referred to in regulation 4;

“property” includes, but is not limited to:

- (a) funds; and
- (b) financial assets; and
- (c) tangible and intangible assets; and
- (d) property rights; and
- (e) publicly and privately traded securities; and
- (f) publicly and privately traded debt instruments; and
- (g) any other financial and economic resources;

“proscribed entity” means:

- (a) an entity, including any commercial, industrial or public utility undertaking, in Serb-occupied territory; or
- (b) an entity purporting to be incorporated, or constituted by or under law purporting to have effect (to the exclusion of the laws of the Republic of Bosnia and Herzegovina), in Serb-occupied territory; or
- (c) an entity, wherever incorporated or constituted, which is owned or controlled, directly or indirectly, by:
 - (i) a person in, or resident in, Serb-occupied territory; or
 - (ii) an entity referred to in paragraph (a) or (b);

“Resolution 724 Committee” means the committee established by United Nations Security Council Resolution No. 724 (1991) adopted on 15 December 1991;

“Resolution 942” means United Nations Security Council Resolution No. 942 (1994) adopted on 23 September 1994;

“Serb-occupied territory” means, in relation to any time, so much of the territory of the Republic of Bosnia and Herzegovina as is or was at that time under the control of Bosnian Serb forces.

(2) Unless the contrary appears, words and expressions used in these Regulations have the same meaning as in Resolution 942.

(3) For the purposes of the definition of “Serb-occupied territory” in subregulation (1), a certificate by the Minister to the effect that, at a particular time, a specified portion of the territory of the Republic of Bosnia and Herzegovina is or was under the control of Bosnian Serb forces is conclusive of the matters stated in the certificate.

Authorised persons

4. The Minister for Foreign Affairs may, in writing, appoint an officer of the Department of Foreign Affairs and Trade to be an authorised person for the purposes of these Regulations.

Economic sanctions

5. (1) Subject to subregulation (2):

- (a) a proscribed entity; or
- (b) a person or entity acting for or on behalf of, or to the benefit of, a proscribed entity:

must not, in Australia, intentionally or recklessly carry on or engage in any activity of an economic nature, including:

- (c) a commercial, financial and industrial activity and, in particular, the use of or dealing in property or interests in property; or
- (d) the exercise of any right relating to property or interests in property; or
- (e) the establishment of any new entity; or
- (f) a change in management of a proscribed entity.

Penalty: 50 penalty units.

(2) Subregulation (1) does not apply to:

- (a) an activity that is permitted under subregulation (3); or
- (b) goods intended for medical purposes; or
- (c) foodstuffs notified to the Resolution 724 Committee; or
- (d) goods:
 - (i) for essential humanitarian needs; and
 - (ii) approved in a particular case by the Resolution 724 Committee.

(3) An authorised person may, in writing, permit a person or entity acting on behalf of and to the benefit of a proscribed entity to carry on or engage in an activity of an economic nature referred to in subregulation (1) in a particular case if the authorised person is satisfied that there is no transfer of property or interests in property to a proscribed entity.

Financial sanctions

6. (1) Subject to subregulation (4), a person who holds assets (being funds or other financial assets or resources that are owned or controlled, directly or indirectly, by a proscribed entity) in Australia must not, intentionally or recklessly:

- (a) deal in any manner with those assets; or
- (b) permit another person to deal in any manner with those assets; or

- (c) in any manner facilitate any dealing with those assets.

Penalty: 50 penalty units.

(2) Subject to subregulation (4), a person who holds any income (including, in particular, dividends, interest or other income on shares, interest, bonds or debt obligations or amounts derived from an interest in, or the sale or other disposal of, or any other dealing with, tangible and intangible assets and property rights) in Australia accruing to a proscribed entity must not, intentionally or recklessly:

- (a) deal in any manner with that income; or
- (b) permit another person to deal in any manner with that income; or

- (c) in any manner facilitate any dealing with that income.

Penalty: 50 penalty units.

(3) Subject to subregulation (4), a person in Australia must not intentionally or recklessly:

- (a) deal with any assets (being funds or other financial assets or resources) or income (including, in particular, dividends, interest or other income on shares, interest, bonds or debt obligations or amounts derived from an interest in, or the sale or other disposal of, or any other dealing with, tangible and intangible assets and property rights); or
- (b) permit another person to deal with any such assets or income; or
- (c) facilitate the dealing with any such assets or income;

in a manner that will be, or is likely or intended to be, for the benefit of a proscribed entity.

Penalty: 50 penalty units.

(4) Subregulations (1) to (3) do not apply to a transaction if:

- (a) the transaction constitutes payment for the purposes of:

- (i) an activity permitted under subregulation 5 (3); or
 - (ii) a transaction authorised by the Government of the Republic of Bosnia and Herzegovina with regard to a person or entity within its territory; and
- (b) an authorised person certifies that:
 - (i) the payment will in fact be used for the purpose referred to in paragraph (a); and
 - (ii) if the payment relates to an activity referred to in subparagraph (a) (i), that the payment will not result in the transfer of funds or other financial assets or resources to a proscribed entity.

Prohibition on the provision of services

7. (1) A person must not intentionally or recklessly provide a service to a person or body for the purposes of any business carried on in Serb-occupied territory.

Penalty: 50 penalty units.

- (2)** Subregulation (1) does not apply to:
 - (a) the provision, consistently with Resolution 942, of:
 - (i) a telecommunication service; or
 - (ii) a postal service; or
 - (iii) a legal service; or
 - (b) the provision of a service the supply of which:
 - (i) may be necessary for humanitarian or other exceptional purposes; and
 - (ii) is approved, in a particular case, by the Resolution 724 Committee; or
 - (c) the provision of a service authorised by the Government of the Republic of Bosnia and Herzegovina.

Exemption of activities of certain international organisations

8. Despite anything to the contrary, these Regulations do not apply to activities of or for the benefit or assistance of:

- (a) the United Nations Protection Force;
- (b) the International Conference on the former Yugoslavia;
and
- (c) the European Community Monitoring Missions.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 30 December 1994.