



Autonomous Sanctions Amendment Act 2024

No. 19, 2024

An Act to amend the *Autonomous Sanctions Act 2011* and validate certain instruments, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Amendments and validations		3
Part 1—Amendments		3
	<i>Autonomous Sanctions Act 2011</i>	3
Part 2—Validation provisions		4



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An Act to amend the *Autonomous Sanctions Act 2011* and validate certain instruments, and for related purposes

[Assented to 8 April 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *Autonomous Sanctions Amendment Act 2024*.

2 Commencement

- (1) Each provision of this Act 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 Act	The day after this Act receives the Royal Assent.	9 April 2024

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments and validations

Part 1—Amendments

Autonomous Sanctions Act 2011

1 After section 10

Insert:

10A Proscription of persons or entities relating to past circumstances, actions or positions

Without limiting subsection 10(1), regulations made for the purposes of paragraph 10(1)(a) may make provision relating to the proscription of persons or entities (for specified purposes or more generally) on the basis of:

- (a) specified circumstances; or
- (b) the actions of, or position held by, those persons or entities; regardless of the period of time that has elapsed since the circumstances existed, the actions were so taken or position was so held.

Part 2—Validation provisions

2 Definitions

In this Part:

anything done includes:

- (a) an omission to do a thing; and
- (b) a refusal to do a thing;

and *anything purported to have been done* has a corresponding meaning.

commencement means the commencement of this Part.

3 Validation of pre-commencement regulations and related instruments—past circumstances, actions or positions

Effect of certain regulations

- (1) Subitem (2) applies to regulations (whether or not still in force) that were made or purportedly made by the Governor-General before commencement if, assuming that had section 10A of the *Autonomous Sanctions Act 2011*, as inserted by this Schedule, been in force when the regulations were made or purportedly made, the regulations would have been permitted by paragraph 10(1)(a) of that Act.
- (2) The regulations are taken for all purposes to be, and to have always been, as valid and effective as they would have been if section 10A of that Act had been in force at the time the regulations were made or purportedly made.

Effect of instruments made under those regulations

- (3) Subitem (4) applies to an instrument (whether or not still in force) that was made or purportedly made under regulations that are taken, by operation of subitem (2), to have been valid and effective at the time the instrument was made or purportedly made.
- (4) The instrument is taken for all purposes to be, and to have always been, as valid and effective as it would have been if subitem (2) had been in force at the time the instrument was made or purportedly made.

Validity of things done

- (5) Anything done, or anything purported to have been done, by a person that would have been wholly or partly invalid except for subitem (2) or (4) is taken for all purposes to be valid and to have always been valid, despite any effect that may have on the accrued rights of any person.

Application of item to proceedings

- (6) For the purposes of applying this item in relation to civil or criminal proceedings, this item applies in relation to:
- (a) civil and criminal proceedings instituted on or after commencement; and
 - (b) civil and criminal proceedings instituted before commencement, being proceedings that are concluded:
 - (i) before commencement; or
 - (ii) on or after commencement.

4 Validation of pre-commencement instruments not authorised by regulations

- (1) This item applies to an instrument (whether or not still in force) that:
- (a) was made or purportedly made by the Minister before commencement under regulations made for the purposes of paragraph 10(1)(a) of the *Autonomous Sanctions Act 2011*; and
 - (b) proscribed a person or entity on the basis of:
 - (i) specified circumstances; or
 - (ii) the actions of, or position held by, the person or entity; and
 - (c) would, apart from this item, be wholly or partly invalid only because the instrument was not authorised by those regulations (as in force at the time the instrument was made or purportedly made) because of the period of time that had elapsed between:
 - (i) the circumstances having existed, the actions having been so taken or position having been so held; and
 - (ii) the proscription of the person or entity.

- (2) The instrument is taken for all purposes to be, and to have always been, valid and effective.
- (3) Anything done, or anything purported to have been done, by a person that would have been wholly or partly invalid except for subitem (2) is taken for all purposes to be valid and to have always been valid, despite any effect that may have on the accrued rights of any person.
- (4) For the purposes of applying this item in relation to civil or criminal proceedings, this item applies in relation to:
 - (a) civil and criminal proceedings instituted on or after commencement; and
 - (b) civil and criminal proceedings instituted before commencement, being proceedings that are concluded:
 - (i) before commencement; or
 - (ii) on or after commencement.

5 Pre-commencement instruments—exercise of discretion

- (1) This item applies to an instrument (whether or not still in force), that was made or purportedly made by the Minister before commencement under regulation 6 or 6A of the *Autonomous Sanctions Regulations 2011* (as in force at the time the instrument was made or purportedly made), if the instrument would, apart from this item, be wholly or partly invalid only because the Minister did not consider whether the Minister should exercise the Minister's discretion to:
 - (a) designate a person or entity; or
 - (b) declare a person; or
 - (c) designate and declare a person.
- (2) This item also applies to an instrument (whether or not still in force), that was made or purportedly made by the Minister before commencement under subregulation 9(3) of the *Autonomous Sanctions Regulations 2011* (as in force at the time the instrument was made or purportedly made), if the instrument would, apart from this item, be wholly or partly invalid only because the Minister did not consider whether the Minister should exercise the Minister's discretion to:
 - (a) declare that a specified designation of a person or entity continues to have effect; or
 - (b) declare that a specified declaration of a person continues to have effect; or

- (c) declare that a specified designation, and a specified declaration, of a person continue to have effect.
- (3) The instrument is taken for all purposes to be, and to have always been, valid and effective.
- (4) Anything done, or anything purported to have been done, by a person that would have been wholly or partly invalid except for subitem (3) is taken for all purposes to be valid and to have always been valid, despite any effect that may have on the accrued rights of any person.
- (5) For the purposes of applying this item in relation to civil or criminal proceedings, this item applies in relation to:
 - (a) civil and criminal proceedings instituted on or after commencement; and
 - (b) civil and criminal proceedings instituted before commencement, being proceedings that are concluded:
 - (i) before commencement; or
 - (ii) on or after commencement.

6 Compensation for acquisition of property

- (1) If:
 - (a) apart from this item, the operation of this Part would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph); and
 - (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia or the Supreme Court of a State or Territory for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

*[Minister's second reading speech made in—
House of Representatives on 15 February 2024
Senate on 29 February 2024]*

(17/24)
