Charter of the United Nations (Sanctions — Afghanistan) Amendment Regulations 2001 (No. 7)\(^1\)

Statutory Rules 2001 No. \(^2\) 298

I, PETER JOHN HOLLINGWORTH, 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 8 OCT 2001 2001

By His Excellency’s Command

PETER HOLLINGWORTH
Governor-General

ALEXANDER DOWNER
Minister for Foreign Affairs
1 Name of Regulations
These Regulations are the Charter of the United Nations (Sanctions — Afghanistan) Amendment Regulations 2001 (No. 2).

2 Commencement
These Regulations commence on gazetted.

3 Amendment of Charter of the United Nations (Sanctions — Afghanistan) Regulations 2001

Schedule 1 Amendments
(regulation 3)

[1] Regulation 3

omit
Resolution 1333 (2000) of the Security Council of the United Nations,

insert
Resolutions 1267 and 1333,

[2] Paragraph 3 (b)

omit
or (ii).

insert
or (ii); and
[3] After paragraph 3 (b)

insert

(c) preventing a person in Australia, or a citizen of Australia, from dealing with financial assets of the Taliban or Usama bin Laden, or individuals or entities associated with them.

[4] Regulation 6, after definition of arms or related matériel

insert

asset has the meaning given by regulation 15.

[5] Regulation 6, after definition of Australian ship

insert

bin Laden asset has the meaning given by regulation 15.

bin Laden entity has the meaning given by regulation 15.

[6] Regulation 6, definition of Committee

substitute

Committee means the Committee established under paragraph 6 of Resolution 1267.

[7] Regulation 6, after definition of protective clothing

insert

[8] Regulation 6, after definition of Resolution 1333

insert

Taliban asset has the meaning given by regulation 15.

Taliban entity has the meaning given by regulation 15.


insert

Part 4 Financial sanctions

15 Interpretation

asset includes the following:

(a) funds;
(b) financial assets;
(c) tangible and intangible assets;
(d) property rights;
(e) publicly and privately traded securities;
(f) publicly and privately traded debt instruments;
(g) income from, or proceeds from the sale of, assets mentioned in paragraphs (a) to (f).

bin Laden asset means:

(a) an asset owned or controlled directly or indirectly by a bin Laden entity; or
(b) an asset owned or controlled directly or indirectly by an entity that is owned or controlled directly or indirectly by a bin Laden entity; or
(c) an asset derived or generated from assets mentioned in paragraph (a) or (b).

bin Laden entity means:

(a) Usama bin Laden; or
(b) the Al-Qaida organisation; or
(c) an individual or entity designated by the Committee under paragraph 8 (c) of Resolution 1333 as being associated with Usama bin Laden.

_Taliban asset_ means:
(a) an asset owned or controlled directly or indirectly by a Taliban entity; or
(b) an asset owned or controlled directly or indirectly by an entity that is owned or controlled directly or indirectly by a Taliban entity; or
(c) an asset derived or generated from assets mentioned in paragraph (a) or (b).

_Taliban entity_ means:
(a) the Taliban; or
(b) an undertaking designated by the Committee under paragraph 4 (b) of Resolution 1267 as being owned or controlled by the Taliban.

16 **Persons must not deal with Taliban or bin Laden assets**

(1) A person who holds a Taliban asset commits an offence if:
(a) the person:
   (i) uses or deals with the asset; or
   (ii) allows the asset to be used or dealt with; or
   (iii) facilitates the use of the asset or dealing with the asset; and
(b) the person is reckless as to whether the asset is a Taliban asset; and
(c) the use or dealing is not in accordance with an authorisation by the Committee under paragraph 4 (b) of Resolution 1267.

Penalty: 50 penalty units.

(2) Strict liability applies to paragraph (1) (c).
(3) A person who holds a bin Laden asset commits an offence if:
   (a) the person:
      (i) uses or deals with the asset; or
      (ii) allows the asset to be used or dealt with; or
      (iii) facilitates the use of the asset or dealing with the asset; and
   (b) the person is reckless as to whether the asset is a bin Laden asset.

Penalty: 50 penalty units.

(4) It is a defence to a charge under subregulation (1) or (3) if the person proves that the use or dealing was solely for the purpose of preserving the value of the asset.

(5) In this regulation:

   *person* means:
   (a) a person (including a body corporate) in Australia; or
   (b) an Australian citizen outside Australia.

17 Persons must not give assets to Taliban or bin Laden entities

(1) A person commits an offence if:
   (a) the person, directly or indirectly, makes an asset available to a Taliban entity; and
   (b) the person is reckless as to whether the entity is a Taliban entity; and
   (c) the making available of the asset is not in accordance with an authorisation by the Committee under paragraph 4 (b) of Resolution 1267.

Penalty: 50 penalty units.

(2) Strict liability applies to paragraph (1) (c).
(3) A person commits an offence if:
   (a) the person, directly or indirectly, makes an asset available to a bin Laden entity; and
   (b) the person is reckless as to whether the entity is a bin Laden entity.

Penalty: 50 penalty units.

(4) In this regulation:
   
   person means:
   (a) a person (including a body corporate) in Australia; or
   (b) an Australian citizen outside Australia.

Notes
1. These Regulations amend Statutory Rules 2001 No. 181.
2. Notified in the Commonwealth of Australia Gazette on / 2001. 9 October