Explanatory Statement

Issued by the Authority of the Minister for Foreign Affairs

Autonomous Sanctions Regulations 2011

Autonomous Sanctions (Designated and Declared Persons – Burma) Revocation 2012 (No. 1)

The Autonomous Sanctions Regulations 2011 (the Regulations) commenced on 15 December 2011. The purpose of the Regulations is to facilitate the conduct of Australia’s relations with certain countries, and with specific entities or persons outside Australia, through the imposition of autonomous sanctions in relation to those countries, or targeting those entities or persons.

Paragraph 6 (1) (a) of the Regulations authorises the Minister for Foreign Affairs (the Minister), by legislative instrument, to designate a person or entity on the basis that the person or entity is mentioned in an item of the table in regulation 6. The purpose of such a designation is to subject the designated person or entity to targeted financial sanctions. The designated person or entity becomes the object of the prohibition in regulation 14 (which prohibits directly or indirectly making an asset available to, or for the benefit of, a designated person or entity, other than as authorised by a permit granted under regulation 18). An asset owned or controlled by a designated person or entity is a “controlled asset”, subject to the prohibition in regulation 15 (which requires a person who holds an asset that is owned or controlled by a designated person or entity to freeze that asset, by prohibiting that person from either using or dealing with that asset, or allowing it to be used or dealt with, or facilitating the use of or dealing with it, other than as authorised by a permit granted under regulation 18).

Paragraph 6 (1) (b) of the Regulations authorises the Minister, by legislative instrument, to declare a person for the purpose of preventing the person from travelling to, entering or remaining in Australia on the basis that the person is mentioned in an item of the table in regulation 6.

The persons designated and declared by the Minister for the purpose of Australia’s autonomous sanctions in relation to Burma are listed in the Autonomous Sanctions (Designated and Declared Persons – Burma) List 2012 (the List). The List was amended by the Minister on 10 May 2012 under the Autonomous Sanctions (Designated and Declared Persons – Burma) Amendment List 2012 (No. 1) (the Amendment List).

The corresponding authority for the Minister to revoke designations and declarations made under regulation 6 is found in paragraph 10 (1) (a) (for designations) and paragraph 10 (1) (b) (for declarations) of the Regulations. Sub-regulation 10 (2) provides that the Minister may revoke a designation or declaration on the Minister’s initiative.

On 7 June 2012 the Minister for Foreign Affairs announced his decision to revoke designations and declarations in relation to all remaining individuals on the
Amendment List. The Autonomous Sanctions (Designated and Declared Persons – Burma) Revocation 2012 (No. 1) revokes the List and the Amendment List to give effect to this decision.

Relevant Commonwealth Government departments were consulted prior to and during the drafting of this legislative instrument.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Autonomous Sanctions (Designated and Declared Persons – Burma) Revocation 2012 (No. 1)

The Autonomous Sanctions (Designated and Declared Persons – Burma) Revocation 2012 (No. 1) (the Revocation) 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.

The Revocation gives effect to the announcement by the Minister on 7 June 2012 that the Australian Government would lift its remaining targeted travel and financial sanctions for Burma to encourage further democratic reform and to lend further support for reforms underway. The Minister will retain the capacity to re-impose targeted financial sanctions and travel restrictions in relation to Burma under the Autonomous Sanctions Regulations 2011 if required.

The Minister’s announcement noted that promoting, and where necessary, having robust discussions about human rights and democracy in Burma would remain a central element of Australia’s engagement with Burma.

Australia has in place systems to screen potentially controversial visitors, which will continue to be used as appropriate in relation to Burma.