Charter of the United Nations (Sanctions—Sudan) Regulations 2008

Select Legislative Instrument No. 51, 2008 as amended

made under the

Charter of the United Nations Act 1945

Compilation start date: 27 July 2013
Includes amendments up to: SLI No. 185, 2013

Prepared by the Office of Parliamentary Counsel, Canberra
About this compilation

This compilation

This is a compilation of the *Charter of the United Nations (Sanctions—Sudan) Regulations 2008* as in force on 27 July 2013. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 26 August 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.
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Charter of the United Nations (Sanctions—Sudan) Regulations 2008
Part 1—Preliminary

1 Name of Regulations

These Regulations are the Charter of the United Nations (Sanctions—Sudan) Regulations 2008.

2 Commencement

These Regulations commence on the day after they are registered.

3 Repeal

The Charter of the United Nations (Sanctions—Sudan) Regulations 2005 are repealed.

4 Definitions

In these Regulations:


*arms or related matériel* includes:

(a) weapons; and
(b) ammunition; and
(c) military vehicles and equipment; and
(d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and
(e) paramilitary equipment.

*Australian aircraft* has the same meaning as in the Criminal Code.

*Australian ship* has the same meaning as in the Criminal Code.

*authorised operation* means an operation, including an operation led by regional organisations, that is for any of the following purposes and is authorised by the United Nations or is carried out with the consent of the relevant parties:
Part 1 Preliminary

Regulation 4

(a) monitoring purposes;
(b) verification purposes;
(c) peace support purposes.

Committee means the Committee established by subparagraph 3(a) of Resolution 1591.

Comprehensive Peace Agreement means the peace agreement between the Government of Sudan and the Sudan People’s Liberation Movement/Army, signed at Nairobi on 9 January 2005.

cONTROLLED asset means an asset that is, directly or indirectly, owned or controlled by:
(a) a designated person or entity; or
(b) a person acting on behalf of or at the direction of a designated person; or
(c) an entity owned or controlled, directly or indirectly, by a designated person.

designated person or entity means a person or entity designated by the Committee or the Security Council for the purposes of subparagraph 3(c) of Resolution 1591.

export sanctioned goods has the meaning given by regulation 5.

non-governmental entity or individual means any entity (including the Janjaweed) or individual who is not acting on behalf of the Government of Sudan.

N’djamena Ceasefire Agreement means the ceasefire agreement between the Government of Sudan, the Sudan Liberation Movement and the Justice and Equality Movement, signed at N’djamena on 8 April 2004.

paramilitary equipment means any of the following:
(a) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes;
(b) body armour, including:
   (i) bullet-resistant apparel; and
(ii) bullet-resistant pads; and
(iii) protective helmets;
(c) handcuffs, leg-irons and other devices used for restraining prisoners;
(d) riot protection shields;
(e) whips;
(f) parts and accessories designed or adapted for use in, or with, equipment mentioned in any of paragraphs (a) to (e).

_protection clothing_ includes flak jackets and military helmets.


_sanctioned service_ has the meaning given in regulation 7.

_sanctioned supply_ has the meaning given in regulation 6.


Note: In these Regulations:
(a) the _Minister_ is the Minister for Foreign Affairs; and
(b) _asset_ has the meaning given in section 2 of the Act.

5 Export sanctioned goods

For these Regulations, _export sanctioned goods_ means arms or related matériel.

6 Sanctioned supply

A person makes a _sanctioned supply_ if:
(a) the person supplies, sells or transfers goods to another person; and
(b) the goods are export sanctioned goods; and
(c) as a direct or indirect result of the supply, sale or transfer the goods are transferred to Sudan.
Part 1 Preliminary

Regulation 7

7 Sanctioned service

For these Regulations, sanctioned service means the provision to Sudan of technical training or assistance related to the provision, manufacture, maintenance or use of export sanctioned goods.

4 Charter of the United Nations (Sanctions—Sudan) Regulations 2008
Part 2—UN sanction enforcement laws

8 Prohibitions relating to a sanctioned supply

(1) A person contravenes this regulation if:
   (a) the person makes a sanctioned supply; and
   (b) the sanctioned supply is not an authorised supply.

(1A) Strict liability applies to the circumstance that the making of the sanctioned supply is not authorised by a permit under regulation 9.

Note: For strict liability, see section 6.1 of the Criminal Code.

(2) Section 15.1 of the Criminal Code applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note: This has the effect that the offence has extraterritorial operation.

(3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if the person uses the services of an Australian ship or an Australian aircraft to transport export sanctioned goods in the course of, or for the purpose of, making a sanctioned supply that is not an authorised supply.

(4) A body corporate contravenes this regulation if:
   (a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and
   (b) the other body corporate or entity makes a sanctioned supply; and
   (c) the sanctioned supply is not an authorised supply.

(5) For this regulation:

   authorised supply means a sanctioned supply that is authorised by:
   (a) a permit under regulation 9; or
   (b) if the supply, sale or transfer takes place in or from a foreign country—a permit:
Part 2  UN sanction enforcement laws

Regulation 9

(i) granted by the foreign country; and
(ii) properly granted by the foreign country; and
(iii) granted in a way that accords with the foreign country’s obligations under Resolution 1556 and Resolution 1591.

(6) A defendant, to a charge under section 27 of the Act that relates to subregulation (1), (3) or (4), bears an evidential burden in relation to the matter in subparagraph (b)(i) of the definition of authorised supply in subregulation (5).

(7) For paragraph (b) of the definition of authorised supply in subregulation (5), a permit is taken not to have been properly granted if the prosecution shows that the permit was granted on the basis of false or misleading information provided by any person, or of corrupt conduct by any person.

Note:  This regulation is a UN sanction enforcement law as specified by the Minister under the Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008.

9 Permit to make a sanctioned supply

(1) The Minister may, on application, grant a person a permit authorising the making of a sanctioned supply.

Note:  Section 13A of the Act applies to a permit granted by the Minister under this subregulation.

(2) The Minister may grant a permit authorising the making of a sanctioned supply to a person mentioned in the following table only if the sanctioned supply to which the permit relates is mentioned in the table in subregulation (3).

<table>
<thead>
<tr>
<th>Item</th>
<th>Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Any non-governmental entity or individual operating in the territory of Darfur, including the states of North, South, East, West and Central Darfur</td>
</tr>
<tr>
<td>2</td>
<td>A party to the N’Djamena Ceasefire Agreement</td>
</tr>
<tr>
<td>3</td>
<td>A belligerent in the territory of Darfur, including the states of North, South, East, West and Central Darfur</td>
</tr>
</tbody>
</table>

6  Charter of the United Nations (Sanctions—Sudan) Regulations 2008
(3) The Minister may grant a permit authorising the making of a sanctioned supply to a person mentioned in the table in subregulation (2) only if the sanctioned supply to which the permit relates is mentioned in the following table.

<table>
<thead>
<tr>
<th>Item</th>
<th>Sanctioned supply</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>A supply for an authorised operation</td>
</tr>
<tr>
<td>2</td>
<td>A supply of non-lethal military equipment that is intended solely for humanitarian use, human rights monitoring or protective use</td>
</tr>
<tr>
<td>3</td>
<td>A supply of protective clothing that is temporarily exported to Sudan for the personal use of any of the following: (a) a member of the personnel of the United Nations; (b) a person engaged in human rights monitoring; (c) a representative of the media; (d) a humanitarian or development worker or an associated person</td>
</tr>
<tr>
<td>4</td>
<td>A supply of military equipment and supplies for use in the territory of Darfur, including the states of North, South, East, West and Central Darfur, that is approved in advance by the Committee in response to a request by the Government of Sudan</td>
</tr>
</tbody>
</table>

(4) The Minister must not grant a permit authorising a sanctioned supply unless the Minister has obtained sufficient end user documentation to ascertain that the supply will be conducted consistent with Resolution 1556 and Resolution 1591.

(5) A permit is subject to any conditions specified in the permit.

10 Prohibitions relating to the provision of sanctioned services

(1) A person contravenes this regulation if:
    (a) the person provides a sanctioned service; and
    (b) the sanctioned service is not an authorised service; and
    (c) the sanctioned service is not provided in relation to an authorised supply.
Part 2 UN sanction enforcement laws

Regulation 10

(1A) Strict liability applies to the circumstance that the provision of a sanctioned service is not authorised by a permit under regulation 11.

Note: For strict liability, see section 6.1 of the Criminal Code.

(2) Section 15.1 of the Criminal Code applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note: This has the effect that the offence has extraterritorial operation.

(3) A body corporate contravenes this regulation if:

(a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and
(b) the other body corporate or entity provides a sanctioned service; and
(c) the sanctioned service is not an authorised service; and
(d) the sanctioned service is not provided in relation to an authorised supply.

(4) For this regulation:

*authorised service* means a sanctioned service that is authorised by:

(a) a permit under regulation 11; or
(b) if the service is provided in a foreign country—a permit:
   (i) granted by the foreign country; and
   (ii) properly granted by the foreign country; and
   (iii) granted in a way that accords with the foreign country’s obligations under Resolution 1556 and Resolution 1591.

*authorised supply* means a sanctioned supply that is authorised by:

(a) a permit under regulation 9; or
(b) if the supply, sale or transfer takes place in or from a foreign country—a permit:
   (i) granted by the foreign country; and
   (ii) properly granted by the foreign country; and

Charter of the United Nations (Sanctions—Sudan) Regulations 2008
(iii) granted in a way that accords with the foreign country’s obligations under Resolution 1556 and Resolution 1591.

(5) A defendant, to a charge under section 27 of the Act that relates to subregulation (1) or (3), bears an evidential burden in relation to:

(a) the matter in subparagraph (b)(i) of the definition of authorised service in subregulation (4); and

(b) the matter in subparagraph (b)(i) of the definition of authorised supply in subregulation (4).

(6) For paragraph (b) of the definitions of authorised service and of authorised supply in subregulation (4), a permit is taken not to have been properly granted if the prosecution shows that the permit was granted on the basis of false or misleading information provided by any person, or of corrupt conduct by any person.

Note: This regulation is a UN sanction enforcement law as specified by the Minister under the Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008

11 Permit to provide a sanctioned service

(1) The Minister may, on application, grant a person a permit authorising the provision of a sanctioned service.

Note: Section 13A of the Act applies to a permit granted by the Minister under this subregulation.

(2) The Minister may grant a permit authorising the provision of a sanctioned service to a person mentioned in the following table only if the sanctioned service to which the permit relates is mentioned in subregulation (3).

<table>
<thead>
<tr>
<th>Item</th>
<th>Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Any non-governmental entity or individual operating in the territory of Darfur, including the states of North, South, East, West and Central Darfur</td>
</tr>
<tr>
<td>2</td>
<td>A party to the N’Djamenia Ceasefire Agreement</td>
</tr>
<tr>
<td>3</td>
<td>A belligerent in the territory of Darfur, including the states of North, South, East, West and Central Darfur</td>
</tr>
</tbody>
</table>

Note: This regulation is a UN sanction enforcement law as specified by the Minister under the Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008
Part 2  UN sanction enforcement laws

Regulation 12

(3) The Minister may grant a permit authorising the provision of a sanctioned service to a person mentioned in the table in subregulation (2) only if the sanctioned service to which the permit relates is:
   (a) for an authorised operation; or
   (b) provided in relation to a supply of non-lethal military equipment that is intended solely for humanitarian use, human rights monitoring or protective use.

(4) A permit is subject to any conditions specified in the permit.

12 Prohibition relating to dealings with designated person or entity

(1) A person contravenes this regulation if:
   (a) the person directly or indirectly makes an asset available to, or for the benefit of:
      (i) a designated person; or
      (ii) a person acting on behalf of or at the direction of a designated person; or
      (iii) an entity owned or controlled, directly or indirectly, by a designated person; and
   (b) the making available of the asset is not authorised by a permit under regulation 14.

(1A) Strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under regulation 14.

Note: For strict liability, see section 6.1 of the Criminal Code.

(2) Section 15.1 of the Criminal Code applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note 1: Subregulation (2) has the effect that the offence has extraterritorial operation.

Note 2: This regulation is a UN sanction enforcement law as specified by the Minister under the Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008.
13 Prohibition relating to sanctions controlled assets

(1) A person contravenes this regulation if:
(a) the person holds a controlled asset; and
(b) 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, or the dealing with, the asset; and
(c) the use or dealing is not authorised by a permit under regulation 14.

(1A) Strict liability applies to the circumstance that the use of or dealing with the asset is not authorised by a permit under regulation 14.

Note: For strict liability, see section 6.1 of the Criminal Code.

(2) Section 15.1 of the Criminal Code applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note 1: Subregulation (2) has the effect that the offence has extraterritorial operation.

Note 2: This regulation is a UN sanction enforcement law as specified by the Minister under the Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008.

14 Permit for dealing with or using sanctions controlled assets

(1) The Minister may, on application, grant a person a permit authorising:
(a) a making available of an asset that would otherwise contravene subregulation 12(1); or
(b) a use of, or a dealing with, a controlled asset that would otherwise contravene subregulation 13(1).

(2) An application must be for a basic expense dealing, a legally required dealing or an extraordinary expense dealing mentioned in regulation 5 of the Charter of the United Nations (Dealing with Assets) Regulations 2008.
(3) An application must specify which kind of dealing mentioned in subregulation (2) the application is for.

(4) If an application is for a basic expense dealing, the Minister:
   (a) must notify the Committee of the application; and
   (b) may grant a permit only if a period of 2 working days has passed since notification was given and during that period the Committee has not advised against granting the permit.

(5) If an application is for an extraordinary expense dealing, the Minister:
   (a) must notify the Committee of the application; and
   (b) may grant a permit only with the approval of the Committee.

(6) If an application is for a legally required dealing, the Minister must not grant a permit unless the Minister notifies the Committee of the application before granting the permit.

(7) A permit is subject to any conditions specified in the permit.

Note: Part 2 of the Charter of the United Nations (Dealing with Assets) Regulations 2008 applies to these Regulation.
Part 3—Miscellaneous

15 Delegations by Minister

(1) The Minister may delegate the Minister’s powers and functions under these Regulations (other than this power of delegation) to:
   (a) the Secretary of the Department; or
   (b) an SES employee, or acting SES employee, in the Department.

(2) The delegation must be in writing.

(3) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.
Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history
Endnote 5—Uncommenced amendments
Endnote 6—Modifications
Endnote 7—Misdescribed amendments
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2
The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

14 Charter of the United Nations (Sanctions—Sudan) Regulations 2008
Endnotes

Endnote 1—About the endnotes

Uncommenced amendments—Endnote 5
The effect of uncommenced amendments is not reflected in the text of the compiled law, but the text of the amendments is included in endnote 5.

Modifications—Endnote 6
If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7
An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8
Endnote 8 includes any additional information that may be helpful for a reader of the compilation.
Endnotes

Endnote 2—Abbreviation key

**Endnote 2—Abbreviation key**

- ad = added or inserted
- am = amended
- c = clause(s)
- Ch = Chapter(s)
- def = definition(s)
- Dict = Dictionary
- disallowed = disallowed by Parliament
- Div = Division(s)
- exp = expired or ceased to have effect
- hdg = heading(s)
- LI = Legislative Instrument
- LIA = *Legislative Instruments Act 2003*
- mod = modified/modification
- No = Number(s)
- o = order(s)
- Ord = Ordinance
- orig = original
- par = paragraph(s)/subparagraph(s)
- pres = present
- prev = previous
- (prev) = previously
- Pt = Part(s)
- r = regulation(s)/rule(s)
- reloc = relocated
- renum = renumbered
- rep = repealed
- rs = repealed and substituted
- s = section(s)
- Sch = Schedule(s)
- Sdiv = Subdivision(s)
- SLI = Select Legislative Instrument
- SR = Statutory Rules
- Sub-Ch = Sub-Chapter(s)
- SubPt = Subpart(s)

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16 Charter of the United Nations (Sanctions—Sudan) Regulations 2008
### Endnote 3—Legislation history

<table>
<thead>
<tr>
<th>Number and year</th>
<th>FRLI registration</th>
<th>Commencement</th>
<th>Application, saving and transitional provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008 No 51</td>
<td>11 Apr 2008 (see F2008L01026)</td>
<td>12 Apr 2008</td>
<td>—</td>
</tr>
<tr>
<td>2010 No 326</td>
<td>13 Dec 2010 (see F2010L03164)</td>
<td>14 Dec 2010</td>
<td>—</td>
</tr>
<tr>
<td>2011 No 65</td>
<td>17 May 2011 (see F2011L00788)</td>
<td>18 May 2011</td>
<td>—</td>
</tr>
<tr>
<td>72, 2013</td>
<td>17 May 2013 (see F2013L00791) (see s 2)</td>
<td>Sch 5: 18 May 2013</td>
<td>—</td>
</tr>
</tbody>
</table>

*Charter of the United Nations (Sanctions—Sudan) Regulations 2008*
## Endnotes

Endnote 4—Amendment history

### Provision affected | How affected
---|---
Pt 1 |  
*s 4* | am No 185, 2013  
Pt 2 |  
*s 8* | am No 72, 2013  
*s 9* | am 2010 No 326; Nos 72 and 185, 2013  
*s 10* | am 2010 No 326; No 72, 2013  
*s 11* | am 2010 No 326; Nos 72 and 185, 2013  
*s 12* | am No 72, 2013  
*s 13* | am 2010 No 326; No 72, 2013  
*s 14* | am 2010 No 326  
Pt 3 |  
Pt 3 | ad 2011 No 65  
s 15 | ad 2011 No 65
Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]