Charter of the United Nations (Sanctions—Mali) Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 November 2018

Peter Cosgrove
Governor-General

By His Excellency’s Command

Marise Payne
Minister for Foreign Affairs
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Authorised Version F2018L01614 registered 27/11/2018
Part 1—Preliminary

1 Name

This instrument is the *Charter of the United Nations (Sanctions—Mali) Regulations 2018*.

2 Commencement

(1) Each provision of this instrument 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.

<table>
<thead>
<tr>
<th>Column 1</th>
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<tr>
<td>Provisions</td>
<td>Commencement</td>
<td>Date/Details</td>
</tr>
<tr>
<td>1. The whole of this instrument</td>
<td>The day after this instrument is registered.</td>
<td>28 November 2018</td>
</tr>
</tbody>
</table>

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Charter of the United Nations Act 1945*.

4 Definitions

Note: The following expressions used in this instrument are defined in the Act:

(a) asset;
(b) UN sanction enforcement law.

In this instrument:

*Act* means the *Charter of the United Nations Act 1945*.

*Committee* means the Committee established under paragraph 9 of Resolution 2374.

*controlled asset* means an asset that is owned or controlled, directly or indirectly, by:

(a) a designated person or entity; or
(b) a person or entity acting on behalf of, or at the direction of, a designated person or entity; or
(c) an entity owned or controlled by a designated person or entity.
Section 4

*designated person or entity* means a person or entity that the Committee designates for the purposes of paragraph 4 of Resolution 2374.

*permit* means a permit under section 8.

Part 2—UN sanction enforcement laws

5 Prohibition relating to dealings with designated persons or entities

(1) A person contravenes this subsection if:
   (a) the person directly or indirectly makes an asset available to, or for the benefit of, a designated person or entity; and
   (b) the making available of the asset is not authorised by a permit.

(2) For an offence under section 27 of the Act that relates to a contravention of subsection (1) of this section by an individual, strict liability applies to the circumstance that the making available of the asset is not authorised by a permit.

(3) Section 15.1 of the Criminal Code (Extended geographical jurisdiction—category A) applies to an offence under section 27 of the Act that relates to a contravention of subsection (1) of this section.

Note 1: Subsection (3) has the effect that the offence has extraterritorial operation.

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

6 Prohibition relating to controlled assets

(1) A person contravenes this subsection 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.

(2) For an offence under section 27 of the Act that relates to a contravention of subsection (1) of this section by an individual, strict liability applies to the circumstance that the use of, or dealing with, the asset is not authorised by a permit.

(3) Section 15.1 of the Criminal Code (Extended geographical jurisdiction—category A) applies to an offence under section 27 of the Act that relates to a contravention of subsection (1) of this section.

Note 1: Subsection (3) has the effect that the offence has extraterritorial operation.

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

7 Permit for assets and controlled assets—application for permit

(1) A person may apply, in writing, to the Minister for a permit authorising:
   (a) the making available of an asset that would otherwise contravene subsection 5(1); or
Section 8

(b) a use of, or dealing with, a controlled asset that would otherwise contravene subsection 6(1).

(2) The application must be for:
   (a) a basic expense dealing, a legally required dealing, a contractual dealing, a required payment dealing or an extraordinary expense dealing within the meaning of regulation 5 of the Charter of the United Nations (Dealing with Assets) Regulations 2008; or
   (b) a dealing that the Committee determines for the purposes of paragraph 5(d) of Resolution 2374.

(3) The application must state which kind of dealing the application is for.

8 Permit for assets and controlled assets—grant of permit

(1) The Minister may, on application by a person under section 7 for a permit authorising a dealing mentioned in subsection 7(2), grant the permit in accordance with this section.

(2) If the application is for a basic expense dealing, the Minister:
   (a) must give the Committee notice of the application; and
   (b) may grant the permit only if the Committee does not make a negative decision in relation to the application within 5 working days after the notice is given.

(3) If the application is for a legally required dealing, the Minister may grant the permit only after giving the Committee notice of the application.

(4) If the application is for a contractual dealing, the Minister may grant the permit.

(5) If the application is for a required payment dealing, the Minister may grant the permit only after giving the Committee at least 10 working days’ notice.

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

(7) If the application is for a dealing mentioned in paragraph 7(2)(b), the Minister may grant the permit.

(8) The permit must be:
   (a) in writing; and
   (b) given to the applicant.

Note: Section 13A of the Act deals with invalidation of permissions etc. granted on the basis of false or misleading information or documents.

9 Permit for assets and controlled assets—conditions

A permit is subject to any conditions specified in the permit.
Part 3—Miscellaneous

10 Delegations by the Minister

(1) The Minister may delegate the Minister’s powers and functions under this instrument (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.