Charter of the United Nations (Dealing with Assets) Regulations 2008

Select Legislative Instrument No. 29, 2008

made under the

Charter of the United Nations Act 1945

Compilation No. 8

Compilation date: 27 March 2019
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Prepared by the Office of Parliamentary Counsel, Canberra
About this compilation

This compilation

This is a compilation of the Charter of the United Nations (Dealing with Assets) Regulations 2008 that shows the text of the law as amended and in force on 27 March 2019 (the compilation date).

The notes at the end of this compilation (the endnotes) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

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

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.
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Part 1—Preliminary

1 Name of Regulations

These Regulations are the Charter of the United Nations (Dealing with Assets) Regulations 2008.

4 Definitions

In these Regulations:


*controlled asset* means:
(a) a freezable asset; or
(b) a controlled asset as defined in any of the Sanctions Regulations.

*designated person or entity* means:
(a) a proscribed person or entity; or
(b) a designated person or entity as defined in any of the Sanctions Regulations.


*Sanctions Regulations* means the following:
(a) the Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008;
(aa) the Charter of the United Nations (Sanctions—Central African Republic) Regulation 2014;
(c) the Charter of the United Nations (Sanctions—Democratic People’s Republic of Korea) Regulations 2008;
(d) the Charter of the United Nations (Sanctions—Democratic Republic of the Congo) Regulations 2008;
(f) the Charter of the United Nations (Sanctions—Iran) Regulation 2016;
(g) the Charter of the United Nations (Sanctions—Iraq) Regulations 2008;
(h) the Charter of the United Nations (Sanctions—Lebanon) Regulations 2008;
(i) the Charter of the United Nations (Sanctions—Libya) Regulations 2011;
(j) the Charter of the United Nations (Sanctions—Mali) Regulations 2018;
(k) the Charter of the United Nations (Sanctions—Somalia) Regulations 2008;
(ka) the Charter of the United Nations (Sanctions—South Sudan) Regulation 2015;
(l) the Charter of the United Nations (Sanctions—Sudan) Regulations 2008;
Regulation 5

(m) the Charter of the United Nations (Sanctions—the Taliban) Regulation 2013;

(ma) the Charter of the United Nations (Sanctions—Yemen) Regulation 2014;

(n) these Regulations.

Note: For these Regulations:
(a) the Department is the Department of Foreign Affairs and Trade and the Minister is the Minister for Foreign Affairs; and
(b) the following terms are defined in the Act:

- asset (section 2);
- freezable asset (section 14);
- proscribed person or entity (section 14).

5 Permissible dealings for sanctions regulations

(1) This regulation defines various permissible dealings for the Sanctions Regulations.

(2) If a set of Sanctions Regulations adopts any of subregulations (3) to (7):

(a) a reference in the subregulation to a designated person or entity is a reference to a designated person or entity as defined in those Regulations; and

(b) a reference in the subregulation to a controlled asset is a reference to a controlled asset as defined in those Regulations.

(3) A dealing constituted by:

(a) a payment to:

(i) a designated person; or

(ii) a person or entity acting on behalf of, or at the direction of, a designated person or entity; or

(iii) an entity owned or controlled by a designated person or entity; or

(b) a use or dealing with a controlled asset;

is a basic expense dealing if it is necessary for basic expenses, including the following:

- foodstuffs;
- rent or mortgage;
- medicines or medical treatment;
- taxes;
- insurance premiums;
- public utility charges;
- reasonable professional fees;
- reimbursement of expenses associated with the provision of legal services;
- fees or service charges that are in accordance with national laws for the routine holding or maintenance of frozen assets.

(4) A dealing constituted by:

(a) a payment to:

(i) a designated person; or
(ii) a person or entity acting on behalf of, or at the direction of, a designated person or entity; or  
(iii) an entity owned or controlled by a designated person or entity; or  
(b) a use or dealing with a controlled asset;  
is a legally required dealing if:  
(c) it is necessary to satisfy a judicial, administrative or arbitral lien or judgement that was made prior to the date on which the person or entity became a designated person or entity; and  
(d) it is not for the benefit of a designated person or entity.

(5) A dealing constituted by:  
(a) a payment to:  
   (i) a designated person; or  
   (ii) a person or entity acting on behalf of, or at the direction of, a designated person or entity; or  
   (iii) an entity owned or controlled by a designated person or entity; or  
(b) a use or dealing with a controlled asset;  
is a contractual dealing if it is a payment:  
(c) to apply interest or other earnings due on accounts holding controlled assets; or  
(d) required under contracts, agreements or obligations made before the date on which those accounts became accounts holding controlled assets.  

Note:  If the account into which the payment is paid is frozen under Sanctions Regulations, this payment will also be frozen once received.

(6) A dealing constituted by:  
(a) a payment by:  
   (i) a designated person; or  
   (ii) a person or entity acting on behalf of, or at the direction of, a designated person or entity; or  
   (iii) an entity owned or controlled by a designated person or entity;  
is a required payment dealing if:  
(b) the payment is required under a contract made before the person or entity became a designated person or entity; and  
(c) the payment is not directly or indirectly being received by a designated person or entity.

(7) Any other dealing constituted by:  
(a) a payment to:  
   (i) a designated person; or  
   (ii) a person or entity acting on behalf of, or at the direction of, a designated person or entity; or  
   (iii) an entity owned or controlled by a designated person or entity; or  
(b) a use or dealing with a controlled asset;  
is an extraordinary expense dealing if it is necessary for extraordinary expenses.
Part 2—Grounds for listing persons, entities or assets

20 Listing for Resolution 1373

(1) For subsection 15 (2) of the Act, the Minister must list a person or entity if the Minister is satisfied that the person or entity is a person or entity mentioned in paragraph 1 (c) of Resolution 1373.

(2) For subsection 15 (4) of the Act, the Minister may list an asset, or class of asset, if the Minister is satisfied that the asset, or class of asset, is owned or controlled by a person or entity mentioned in paragraph 1 (c) of Resolution 1373.

Note: Paragraph 1 (c) of Resolution 1373 requires States to:

‘Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;’.

21 Advance notice of listing of persons, entities and assets

(1) The Department may give notice of decisions of the Minister to list a person or entity, or an asset or class of asset, under section 15 of the Act to any person who is engaged in the business of holding, dealing in, or facilitating dealing in, assets.

(2) The notice may be given before notice of the listing that is the subject of the decisions is published in the Gazette.
Part 3—Authorised dealings

30 Definitions for Part 3

(1) In this Part, a dealing constituted by:
   (a) a payment to a proscribed person or entity, or a payment to a person or entity acting on behalf of, or at the direction of a proscribed person or entity; or
   (b) a use or dealing with a freezable asset;
   is basic expense dealing if it is necessary for basic expenses, including the following:
   (c) foodstuffs;
   (d) rent or mortgage;
   (e) medicines or medical treatment;
   (f) taxes;
   (g) insurance premiums;
   (h) public utility charges;
   (i) reasonable professional fees;
   (j) reimbursement of expenses associated with the provision of legal services;
   (k) fees or service charges that are in accordance with national laws for the routine holding or maintenance of frozen assets.

(2) In this Part a dealing constituted by:
   (a) a payment to a proscribed person or entity, or a payment to a person or entity acting on behalf of, or at the direction of a proscribed person or entity; or
   (b) a use or dealing with a freezable asset;
   is a contractual dealing if it is a payment:
   (c) to apply interest or other earnings due on accounts holding freezable assets; or
   (d) required under contracts, agreements or obligations made before the date on which those accounts became accounts holding freezable assets.

Note: If the account into which the payment is paid is frozen under Part 4 of the Act, this payment will also be frozen once received.

(3) In this Part any other dealing constituted by:
   (a) a payment to a proscribed person or entity, or a payment to a person or entity acting on behalf of, or at the direction of a proscribed person or entity; or
   (b) a use or dealing with a freezable asset;
   is an extraordinary expense dealing.
Part 3  Authorised dealings

Regulation 31

31 Authorised dealings

(1) When an application has been made under section 22 of the Act in relation to a use of or dealing with a freezable asset, the Minister may authorise the use or dealing if it is a basic expense dealing, a contractual dealing or an extraordinary expense dealing.

(2) An application must specify which kind of dealing mentioned in subregulation (2) the application is for.
**Part 4—Miscellaneous**

### 40 Consolidated list of entities, persons and assets

1. The Department must maintain a document that sets out:
   a. all persons and entities that are currently designated persons or entities; and
   b. all assets or classes of assets currently listed under section 15 of the Act.

2. The Department must ensure that an electronic version of the document is made available to the public on the internet.

### 41 Request to AFP for help

1. A person who holds an asset that the person suspects is, or may be, a controlled asset may request the AFP to help the person determine whether or not the asset is owned or controlled by a designated person or entity.

2. The request must be accompanied by details of the asset, and as much information about the asset (including information about the owner or controller of the asset) as is known to the person making the request.

3. The AFP must use its best endeavours to help a person who has made a request under subregulation (1).

4. As soon as practicable after receiving a request under subregulation (1), the AFP must respond in writing.

5. The response must state whether the AFP considers that:
   a. it is likely that the asset is owned or controlled by a designated person or entity; or
   b. it is unlikely that the asset is owned or controlled by a designated person or entity; or
   c. it is unknown whether the asset is owned or controlled by a designated person or entity.

**Note:** These Regulations do not limit the obligation of:
   a. a cash dealer under section 16 of the Financial Transaction Reports Act 1988 to report a suspicious transaction; or
   b. a reporting entity under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.

### 42 Notification

1. This regulation sets out what a person who is holding an asset must do if the person forms an opinion (a *notifiable opinion*) that:
   a. the asset is a controlled asset; or
   b. the asset, having been a controlled asset, or having been previously treated by the person as a controlled asset, is not, or is no longer, a controlled asset.
Regulation 43

(2) Paragraph (1) (b) does not apply if:
   (a) the asset has been removed from the list mentioned in regulation 40; or
   (b) all designated persons associated with the asset have been removed from
       the list.

(3) As soon as practicable after a person forms a notifiable opinion, the person must
    inform the AFP of:
   (a) the asset about which the opinion was formed; and
   (b) as much information about the asset (including information about the
       owner or controller of the asset) as is known to the person; and
   (c) the reasons for the opinion.

43 Protection of information

(1) This regulation applies to a person who, at the time that something is done under
    the Act or these Regulations (a relevant action), is:
   (a) the Minister; or
   (b) the Secretary of the Department; or
   (c) an officer of the Commonwealth; or
   (d) an AFP employee, or a member of the Australian Federal Police, within the
       meaning of the Australian Federal Police Act 1979; or
   (e) a person who holds a controlled asset or an asset that the person suspects
       may be a controlled asset; or
   (f) a person employed by a person mentioned in paragraph (e).

(2) A person to whom this regulation applies is not required:
   (a) to produce in a court any document that has come into the custody or
       control of the person in the course of, or because of, the relevant action; or
   (b) to divulge or communicate to a court any matter or thing that has come to
       the notice of the person in the course of, or because of, the relevant action;
       unless it is necessary to do so to comply with the Act or these Regulations.

44 Indemnity

A person (including the Commonwealth) is not liable to an action, suit or
proceeding for anything done or omitted to be done in good faith and without
negligence under regulation 41 or 42.

Note: Section 24 of the Act is an indemnity for anything done or omitted to be done in
compliance or purported compliance with the Act.
Endnotes

Endnote 1—About the endnotes
The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key 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 (or will amend) the compiled law. The information includes commencement details for amending laws and details of any 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 (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The Legislation Act 2003 authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.
Endnotes

Endnote 2—Abbreviation key

ad = added or inserted
am = amended
amdt = amendment
c = clause(s)
C[x] = Compilation No. x
Ch = Chapter(s)
def = definition(s)
Dict = Dictionary
disallowed = disallowed by Parliament
Div = Division(s)
ed = editorial change
exp = expires/expired or ceases/ceased to have effect
F = Federal Register of Legislation
gaz = gazette
LA = Legislation Act 2003
LIA = Legislative Instruments Act 2003
(md) = misdescribed amendment can be given effect
(md not incorp) = misdescribed amendment cannot be given effect
mod = modified/modification
No. = Number(s)
o = order(s)
ord = original
par = paragraph(s)/subparagraph(s)
/ /sub-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)/subsection(s)
Sch = Schedule(s)
Sdiv = Subdivision(s)
SLI = Select Legislative Instrument
SR = Statutory Rules
Sub-Ch = Sub-Chapter(s)
SubPt = Subpart(s)
underlining = whole or part not commenced or to be commenced

Charter of the United Nations (Dealing with Assets) Regulations 2008

Compilation No. 8

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Authorised Version F2019C00308 registered 10/04/2019
### Endnote 3—Legislation history

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## Endnote 4—Amendment history

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