

# **Charter of the United Nations (Sanctions-Afghanistan) Regulations 2001 2001 No. 181**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 2001 No. 181**

Issued by the Authority of the Minister for Foreign Affairs

*Charter of the United Nations Act 1945*

Charter of the United Nations (Sanctions-Afghanistan) Regulations 2001

Section 6 of the *Charter of the United Nations Act 1945* (the Act) provides that the Governor-General may make Regulations for, and in relation to, giving effect to decisions that:

- (a) the Security Council has made under Chapter VII of the Charter of the United Nations; and
- (b) Article 25 of the Charter requires Australia to carry out;

in so far as those decisions require Australia to apply measures not involving the use of armed force.

On 19 December 2000, the Security Council passed Resolution 1333, imposing further sanctions against the Taliban in Afghanistan. Resolution 1333 imposes an arms embargo, a ban on the provision of military technical assistance, advice and training, reducing staff at diplomatic missions, further flight restrictions, a freeze on the assets of Usama bin Laden and his associates, and a ban on the supply of a chemical used in processing opium.

The purpose of the Regulations is to implement Australia's obligations under Resolution 1333, in combination with the *Customs (Prohibited Exports) Regulations*, in terms of applying further sanctions against the Taliban in Afghanistan.

The Regulations will:

- Prohibit a person in Australia or a citizen of Australia who is outside Australia, from engaging in conduct that assists, or results in, the sale, supply or transfer of arms or related materiel to a place in Taliban territory, without approval.
- Prohibit a person in Australia or a citizen of Australia who is outside Australia, from engaging in conduct that assists, or results in, the sale, supply or transfer to armed personnel under the control of the Taliban of technical advice, training or other assistance in relation to military activities, without approval.
- Provide that Australian aircraft and Australian ships cannot be used in a manner that contravenes the above.
- Prohibit a person in Australia or a citizen of Australia who is outside Australia, from engaging in conduct that assists, or results in, the sale, supply or transfer of the chemical acetic anhydride to a person for the purpose of an activity carried on in, or operated from, Taliban territory.

## ATTACHMENT

### *Charter of the United Nations (Sanctions-Afghanistan) Regulation 2001*

Details of the proposed Regulations are as follows:

Regulation 1 states the name of the Regulations;

Regulation 2 states that the Regulations commence on gazetta;

Regulation 3 states that the object of the Regulations is to assist in giving effect to Resolution 1333 concerning Afghanistan;

Regulation 4 provides that the Regulations have extra-territorial operation according to their terms;

Regulation 5 refers to the application of the *Criminal Code*;

Regulation 6 defines 'arms and related materiel', 'Australian aircraft', 'Australian ship', 'Committee', 'engage in conduct', 'paramilitary equipment', 'protective clothing', 'Resolution 1333' and 'Taliban territory';

Regulation 7 provides that Regulations 8 to 10 apply to a person in Australia or a citizen of Australia who is outside Australia;

Regulation 8(1) prohibits a person from engaging in conduct that assists, or results in, the sale, supply or transfer of arms or related materiel to a place in Taliban territory, if the sale, supply or transfer is not in accordance with an approval given in advance, under paragraph 6 of Resolution 1333, by the Committee, with a penalty of 50 penalty units.

Regulation 8(2) provides that strict liability applies to the physical element that the sale, supply or transfer is not in accordance with an approval given in advance, under paragraph 6 of Resolution 1333, by the Committee, with a penalty of 50 penalty units.

Regulation 8(3) states that this Regulation does not apply in relation to the sale, supply or transfer of protective clothing to a place in Taliban territory, if the clothing is intended to be worn only by a member of the personnel of the United Nations, a representative of the media or a humanitarian worker.

Regulation 9(1) prohibits a person from engaging in conduct that assists, or results in, the sale, supply or transfer to armed personnel under the control of the Taliban of technical advice, training or other assistance in relation to military activities, if the sale, supply or transfer is not in accordance with an approval given in advance, under paragraph 6 of Resolution 1333, by the Committee, with a penalty of 50 penalty units;

Regulation 9(2) provides that strict liability applies to the physical element that the sale, supply or transfer is not in accordance with an approval given in advance, under paragraph 6 of Resolution 1333, by the Committee, with a penalty of 50 penalty units.

Regulation 10(1) prohibits a person from engaging in conduct that assists, or results in, the sale, supply or transfer of the chemical acetic anhydride to a person in a place in Taliban territory, with a penalty of 50 penalty units.

Regulation 10(2) prohibits a person from engaging in conduct that assists, or results in, the sale, supply or transfer of the chemical acetic anhydride to a person for the purpose of an activity carried on in, or operated from, Taliban territory, with a penalty of 50 penalty units.

Regulation 11 prohibits the owner, pilot in command or operator of an Australian aircraft from allowing the aircraft to be used in relation to a matter proscribed by Regulation 8, with a penalty of 50 penalty units;

Regulation 12 prohibits the owner, pilot in command or operator of an Australian aircraft from allowing the aircraft to be used in relation to a matter proscribed by Regulation 9, with a penalty of 50 penalty units;

Regulation 13 prohibits the owner, master or operator of an Australian ship from allowing the ship to be used in relation to a matter proscribed by Regulation 8, with a penalty of 50 penalty units.

Regulation 14 prohibits the owner, master or operator of an Australian ship from allowing the ship to be used in relation to a matter proscribed by Regulation 9, with a penalty of 50 penalty units.