



Charter of the United Nations (Sanctions — Liberia) Regulations 2008¹

Select Legislative Instrument 2008 No. 47

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Charter of the United Nations Act 1945*.

Dated 10 April 2008

P. M. JEFFERY
Governor-General

By His Excellency's Command

STEPHEN SMITH
Minister for Foreign Affairs

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Part 1 Preliminary

1 Name of Regulations

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

2 Commencement

These Regulations commence on the day after they are registered.

3 Repeal

The *Charter of the United Nations (Sanctions — Liberia) Regulations 2002* are repealed.

4 Definitions

In these Regulations:

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

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*.

Committee means the committee established under paragraph 21 of Resolution 1521.

controlled asset means an asset owned or controlled by a designated person or entity.

Regulation 4

designated person or entity means a person or entity designated by the Committee or the Security Council for paragraph 1 of Resolution 1532.

export sanctioned goods has the meaning given by regulation 5.

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 paragraphs (a) to (e).

protective clothing includes flak jackets and military helmets.

Resolution 1521 means Resolution 1521 (2003) of the Security Council, adopted on 22 December 2003.

Resolution 1532 means Resolution 1532 (2004) of the Security Council, adopted on 12 March 2004.

Resolution 1683 means Resolution 1683 (2006) of the Security Council, adopted on 13 June 2006.

Resolution 1731 means Resolution 1731 (2006) of the Security Council, adopted on 20 December 2006.

Resolution 1792 means Resolution 1792 (2007) of the Security Council, adopted on 19 December 2007.

Security Council means the United Nations Security Council.

sanctioned service has the meaning in regulation 7.

sanctioned supply has the meaning in regulation 6.

UNMIL means the United Nations Mission in Liberia.

Note In these Regulations:

- (a) the **Minister** is the Minister for Foreign Affairs; and

Regulation 7

(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 Liberia.

7 *Sanctioned service*

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

Regulation 8

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.
- (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:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and

Regulation 9

- (iii) granted in a way that accords with the foreign country's obligations under Resolution 1521, Resolution 1683, Resolution 1731 and Resolution 1792.
- (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 only if the sanctioned supply:
 - (a) is a supply of non-lethal military equipment (but not non-lethal weapons and ammunition) that:
 - (i) is intended solely for use by the members of the Government of Liberia police and security forces who have been vetted and trained since the inception of UNMIL in October 2003; and
 - (ii) is notified in advance to the Committee; or
 - (b) is a limited supply of weapons and ammunition that:
 - (i) is intended solely for use by the members of the Government of Liberia police and security forces who have been vetted and trained since the inception of UNMIL in October 2003; and
 - (ii) is approved in advance by the Committee; or

Regulation 10

- (c) is a supply of arms or related matériel intended solely for the support of, or use by, UNMIL; or
 - (d) is a supply of arms or related matériel that:
 - (i) is intended solely for the support of, or use by, an international training and reform program for the Liberian armed forces and police; and
 - (ii) is approved in advance by the Committee; or
 - (e) is a supply of non-lethal military equipment that:
 - (i) is intended solely for humanitarian or protective use or use in technical assistance or training; and
 - (ii) is approved in advance by the Committee; or
 - (f) is a supply of protective clothing that is temporarily exported to Liberia for the personal use of:
 - (i) a member of the personnel of the United Nations; or
 - (ii) a representative of the media; or
 - (iii) a humanitarian or development worker or an associated person.
- (3) For subparagraph (2) (b) (ii), the Minister must ensure that an application to the Committee for approval is a joint application from the Minister and the Government of Liberia.
- (4) 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) it is not an authorised service; and
 - (c) it is not provided in relation to an authorised supply.
- (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.

Regulation 10

- (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 1521, Resolution 1683, Resolution 1731 and Resolution 1792.
- 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
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1521, Resolution 1683, Resolution 1731 and Resolution 1792.
- (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

Regulation 11

(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 only if the sanctioned service:
- (a) consists of technical training and assistance intended solely for the support of, or use by, UNMIL or
 - (b) consists of technical training and assistance that:
 - (i) is intended solely for the support of, or use in, an international training and reform program for the Liberian armed forces and police; and
 - (ii) is approved in advance by the Committee; or
 - (c) consists of technical assistance and training that:
 - (i) is related to a supply of non-lethal military equipment intended solely for humanitarian or protective use; and
 - (ii) is approved in advance by the Committee.
- (3) A permit is subject to any conditions specified in the permit.

Regulation 13

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, a designated person or entity; and
 - (b) the making available of the asset is not authorised by a permit under regulation 14.
- (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 not authorised by a permit under regulation 14.
- (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*.

Regulation 14

14 Permit for dealing with or using sanctions controlled assets

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

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

- (2) An application must be for a basic expense dealing, a legally required dealing, an extraordinary expense dealing or a contractual 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;
 - (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 Regulations.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.