



# Charter of the United Nations (Sanctions — Rwanda) Regulations 2008

## Select Legislative Instrument 2008 No. 48

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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 — Rwanda) Regulations 2008*.

### 2 Commencement

These Regulations commence on the day after they are registered.

### 3 Repeal

The *Charter of the United Nations (Sanctions — Rwanda) Regulations 2006* are repealed.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.

*Note* Paramilitary equipment includes parts and accessories designed or adapted for use in, or with, paramilitary equipment mentioned in paragraphs (a) to (e) of the definition of **paramilitary equipment** (see paragraph (f) of that definition).

**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 14 of Resolution 918.

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*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).

*Resolution 918* means Resolution 918 (1994) of the Security Council of the United Nations, adopted on 17 May 1994.

*Resolution 1011* means Resolution 1011 (1995) of the Security Council of the United Nations, adopted on 16 August 1995.

*sanctioned supply* has the meaning in regulation 6.

**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 Rwanda or to persons in Burundi, the Democratic Republic of Congo, Tanzania or Uganda for use in Rwanda.

## Part 2 UN sanction enforcement laws

### 7 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 8; 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 8**

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- (iii) granted in a way that accords with the foreign country's obligations under Resolution 918 and Resolution 1011.
- (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*.

**8 Permit to make a sanctioned supply**

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

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

- (2) The Minister may grant a permit to a person only if:
  - (a) the sanctioned supply of goods is a supply to the Government of Rwanda; and
  - (b) the contract for delivery of the goods includes appropriate end-user guarantees to the effect that the goods will not, directly or indirectly, be sold or transferred to, or otherwise made available for use by:
    - (i) any State neighbouring Rwanda; or
    - (ii) a person not in the service of the Government of Rwanda; and
  - (c) the goods are delivered through a point of entry specified on a list supplied by the Government of Rwanda to the Secretary-General of the United Nations.

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- (3) The Minister may also grant a permit to a person if the sanctioned supply:
- (a) is a supply of explosives intended exclusively for use in established humanitarian demining programs; and
  - (b) the supply is approved in advance by the Committee.
- (4) A permit is subject to any conditions specified in the permit.

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**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>.