

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 6

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

Charter of the United Nations (Sanctions) Amendment Regulations 2009 (No. 1)

The purpose of the Regulations is to correct drafting errors in the *Charter of the United Nations (Sanctions – Afghanistan) Regulations 2008* (the Principal Regulations), to rename the Principal Regulations to better reflect the terms of the United Nations Security Council resolutions which the Principal Regulations implement and to make a consequential amendment to the *Charter of the United Nations (Dealing with Assets) Regulations 2008* to reflect the name change of the Principal Regulations.

Section 6 of the *Charter of the United Nations Act 1945* provides that the Governor-General may make regulations for, and in relation to, giving effect to decisions that the Security Council has made under Chapter VII of the Charter of the United Nations which 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.

The Principal Regulations currently implement Australia's obligations under United Nations Security Council Resolutions 1735 (2006), 1390 (2002) and 1267 (1999) (the Resolutions) dealing with Al-Qaida, the Taliban and Usama bin Laden and other individuals, groups, undertakings and entities associated with them. Since the Principal Regulations came into effect, Australia's obligations have been reiterated in United Nations Security Council Resolution 1822 (30 June 2008).

Item 1 of Schedule 1 of the Regulations amends regulation 1 of the Principal Regulations to providing that the Principal Regulations are to be called the *Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Regulations 2008*. This more accurately reflects the international obligations being implemented by Australia which are directed towards the individuals and entities wherever they are situated or acting not just when they are situated in or engaged in activity associated with Afghanistan.

Regulation 7 of the Principal Regulations which provides the definition of a sanctioned service is amended by item 2 of Schedule 1 of the Regulations to delete the words "to Afghanistan". This amendment reflects the fact that Australia's international obligations are to prevent the provision of technical advice, assistance or training related to military activities to designated persons or entities wherever they are, not only when those designated persons or entities or their associates are in Afghanistan or the sanctioned service is provided in Afghanistan.

Item 3 of Schedule 1 corrects a grammatical error, changing the word "deal" to "deals".

Schedule 2 of the Regulations amends the *Charter of the United Nations (Dealing with Assets) Regulations 2008* to reflect the changed title of the Principal Regulations. Regulation 4 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008* provides definitions for the terms referred to in those regulations, including a definition of "Sanctions Regulations". Paragraph (a) of the list of legislative instruments included in the definition of "Sanctions Regulations" is currently the *Charter of the United Nations (Sanctions –*

Afghanistan) Regulations 2008. Item 1 of Schedule 2 of the Regulations substitutes the amended title “*Charter of the United Nations (Sanctions - Al-Qaida and the Taliban) Regulations 2008*” for the existing paragraph (a).

Indepartmental and industry consultations were undertaken during the preparation of the Principal Regulations. As the Regulations implement amendments of a minor nature intended to more accurately reflect Australia’s international obligations, to make the effect of the Regulations more easily understood by those people who need to refer to them and act in accordance with them, and to correct a minor grammatical error, it was not deemed necessary to undertake public consultation at this time.

The Resolutions were adopted under Article 41 of Chapter VII of the Charter of the United Nations and the measures are binding on Australia pursuant to Article 25 of that Charter. The relevant United Nations Security Council Resolutions can be found on the UN website (www.un.org).

Details of the Regulations are set out in the Annex.

Charter of the United Nations (Sanctions) Amendment Regulations 2009 (No. 1)

Details of the Regulations are as follows:-

Regulation 1 states that the name of the Regulations is the *Charter of the United Nations (Sanctions) Amendment Regulations 2009 (No. 1)*.

Regulation 2 provides that the Regulations commence on the day after they are registered.

Regulation 3 provides that Schedule 1 amends the *Charter of the United Nations (Sanctions – Afghanistan) Regulations 2008*.

Regulation 4 provides that Schedule 2 amends the *Charter of the United Nations (Dealing with Assets) Regulations 2008*.

Schedule 1 Amendments to the *Charter of the United Nations (Sanctions – Afghanistan) Regulations 2008*

Item 1 amends regulation 1 by substituting the name of the Regulations so that they are to be called the *Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Regulations 2008*.

Item 2 amends regulation 7 by deleting the words “to Afghanistan” from the definition of a sanctioned service so that a sanctioned service to a designated person or entity need not involve the geographical territory of Afghanistan.

Item 3 amends regulation 11, paragraph (1)(b) substituting the word “deals” for “deal” which corrects a grammatical or typographical error.

Schedule 2 Amendments to the *Charter of the United Nations (Dealing with Assets) Regulations 2008*

Item 1 amends the definition of “Sanctions Regulations” in regulation 4 by substituting for paragraph (a) the new title “*Charter of the United Nations (Sanctions – Al-Qaida and the Taliban) Regulations 2008*”.