



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

Select Legislative Instrument 2009 No. 88

I, QUENTIN BRYCE, 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 14 May 2009

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

STEPHEN SMITH
Minister for Foreign Affairs

1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions — Somalia) Amendment Regulations 2009 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Charter of the United Nations (Sanctions — Somalia) Regulations 2008*

Schedule 1 amends the *Charter of the United Nations (Sanctions — Somalia) Regulations 2008*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 4, after definition of **Committee**

insert

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

designated person or entity means a person or entity designated by the Committee or by the Security Council of the United Nations for paragraph 8 of Resolution 1844.

[2] Regulation 4, after definition of **paramilitary equipment**

insert

prohibited service to a designated person or entity has the meaning given by regulation 6A.

prohibited supply to a designated person or entity has the meaning given by regulation 5A.

[3] Regulation 4, after definition of **Resolution 1744**

insert

Resolution 1844 means Resolution 1844 (2008) of the Security Council of the United Nations, adopted on 20 November 2008.

Resolution 1846 means Resolution 1846 (2008) of the Security Council of the United Nations, adopted on 2 December 2008.

Resolution 1851 means Resolution 1851 (2008) of the Security Council of the United Nations, adopted on 16 December 2008.

[4] Regulation 4, after definition of *weapons and military equipment*

insert

working day means a day that is not a Saturday, Sunday or public holiday.

[5] After regulation 5

insert

5A Prohibited supply to designated person or entity

For these Regulations a person makes a ***prohibited supply to a designated person or entity*** if the person supplies, sells or transfers export sanctioned goods:

- (a) to a designated person or entity; or
- (b) to a person who is not a designated person or entity and as a direct or indirect result of that supply, sale or transfer, the goods are transferred to a designated person or entity.

[6] After regulation 6

insert

6A Prohibited service to designated person or entity

For these Regulations, ***prohibited service to a designated person or entity*** means the direct or indirect provision to a designated person or entity of technical assistance or training, or financial or other assistance, including investment, brokering or other financial services, related:

- (a) to military activities; or
- (b) to the supply, sale, transfer, manufacture, maintenance or use of export sanctioned goods.

[7] Part 2, heading

substitute

Part 2 UN sanction enforcement laws

Division 2.1 Sanctioned supply and sanctioned services to Somalia

[8] Subparagraph 9 (2) (d) (ii)

omit

Committee.

insert

Committee; or

[9] After paragraph 9 (2) (d)

insert

- (e) is for the sole use of Member States and regional organisations cooperating with the TFG in the fight against piracy and armed robbery at sea, in accordance with paragraph 6 of Resolution 1851.

[10] Paragraph 11 (2) (b)

omit

Resolution 1744.

insert

Resolution 1744; or

[11] After paragraph 11 (2) (b)*insert*

- (c) is solely for the purpose of enhancing the capacity of Somalia and nearby coastal States to ensure coastal and maritime security, including combating piracy and armed robbery at sea off the Somali and nearby coastlines, as set out in paragraph 5 of Resolution 1846.

[12] Subregulation 11 (3)*after*

paragraph (2) (b)

insert

or (c)

[13] After regulation 11*insert***Division 2.2 Sanctions relating to designated person or entity****12 Prohibition relating to prohibited supply or prohibited service to designated person or entity**

- (1) A person contravenes this regulation if the person:
- (a) makes a prohibited supply to a designated person or entity;
or
 - (b) provides a prohibited service to a designated person or entity.
- (2) 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 prohibited supply to a designated person or entity.

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- (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 prohibited service to a designated person or entity.
- (4) 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), (2) or (3).

Note 1 Subregulation (4) 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 dealings with designated persons or entities

- (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 15.
- (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*.

14 Prohibition relating to 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 the asset or dealing with the asset; and
- (c) the use or dealing is not authorised by a permit under regulation 15.

- (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*.

15 Permit for assets or 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 13 (1); or
 - (b) a use of, or 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) a basic expense dealing; or
 - (b) a legally required dealing; or
 - (c) a contractual dealing; or
 - (d) an extraordinary expense 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 the application is for a basic expense dealing, the Minister:
- (a) must notify the Committee of the application; and

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- (b) may grant a permit only if:
 - (i) 3 working days have passed since the notice was given; and
 - (ii) the Committee has not advised against granting the permit to the applicant.
 - (5) If the application is for a legally required dealing, the Minister must notify the Committee of the application.
 - (6) If the application is for an extraordinary expense dealing, the Minister:
 - (a) must notify the Committee of the application; and
 - (b) may grant the permit only with the approval of the Committee.
 - (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>.