

Explanatory Statement

Issued by the Authority of the Minister for Trade

Autonomous Sanctions Act 2011

Autonomous Sanctions (Sanction Law) Declaration 2012

Section 3 of the *Autonomous Sanctions Act 2011* (the Act) provides that the main purposes of the Act include to provide for enforcement of autonomous sanctions, as well as to facilitate the collection, flow and use of information relevant to the administration of autonomous sanctions (whether applied under the Act or another law of the Commonwealth).

Sub-section 6 (1) of the Act provides that the Minister may, by legislative instrument, specify a provision of a law of the Commonwealth as a “sanction law” for these purposes. Schedule 1 of the *Autonomous Sanctions (Sanction Law) Declaration 2012* lists those provisions of Commonwealth laws specified by the Minister as sanction laws.

The specification of sanction laws defines the scope of the offences set out in Part 3 of the Act. Specifically, section 16 makes it an offence to contravene a sanction law, or a condition of an authorisation (however described) under a sanction law. Section 17 makes it an offence to give information or a document that is false or misleading to a Commonwealth entity in connection with the administration of a sanction law.

Similarly, the specification of sanction laws defines the scope for the collection, flow and use of information relating to autonomous sanctions provided for in Part 4 of the Act. Section 18 allows the CEO of a Commonwealth entity to give the CEO of a Commonwealth entity designated under section 5 of the Act any information or documents he or she requests, despite any other law of the Commonwealth, a State or a Territory, so long as the request is for a purpose directly related to the administration of a sanction law.

Section 19 authorises the CEO of a designated Commonwealth entity to give a person a written notice requiring the person, despite any other law of the Commonwealth, a State or a Territory, to give the CEO information or documents of the kind, by the time and in any manner or form specified in the notice, so long as the requirement is for the purpose of determining whether a sanction law has been or is being complied with. Failure to comply is an offence under section 21.

The new legal framework for the imposition of autonomous sanctions by Australia, of which the *Autonomous Sanctions Regulations 2011* (the Regulations) and the *Autonomous Sanctions (Sanction Law) Declaration 2012* are part, has been the subject of extensive consultation with governmental and non-governmental stakeholders since May 2010.

This consultation included public and industry consultation sessions in mainland capital cities in May 2010, in advance of the *Autonomous Sanctions Bill* being first

tabled in the House of Representatives and again in August 2011, before the Regulations were released for public comment. It also included briefings for state and territory Government agencies, as well as industry-specific sessions for the financial services sector, the freight forwarding and customs brokering sector and the tertiary education sector.

On 27 September 2011 the Regulations were published on the Department of Foreign Affairs and Trade website as an exposure draft for three weeks for public comment. The Department received nine submissions from a range of organisations in the financial services sector, the tertiary education sector and the legal community. Seven organisations and individuals agreed to the publication of their submissions on the Department's website. The Government's response to the issues raised by these submissions was also published on the Department's website.

Details of the Legislative Instrument are set out in the Annex.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Autonomous Sanctions (Sanction Law) Declaration 2012

The *Autonomous Sanctions (Sanction Law) Declaration 2012* does not engage, and is therefore compatible with, the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Details of the Autonomous Sanctions (Sanction Law) Declaration 2012

Paragraph 1 – Name of Instrument

Paragraph 1 of the Instrument provides that the name of the Instrument is the *Autonomous Sanctions (Sanction Law) Declaration 2012*.

Paragraph 2 – Commencement

Paragraph 2 provides that the Instrument shall commence on the day after it is registered.

Paragraph 3 – Sanction laws

Paragraph 3 of the Instrument provides that for section 6 of the *Autonomous Sanctions Act 2011*, each provision mentioned in Schedule 1 of the Instrument, being a provision of a law of the Commonwealth mentioned in that item, is specified as a sanction law.

Schedule 1 – Sanction Laws

Item 1 of Schedule 1 of the Instrument provides that regulations 12, 13, 14, 15 and 16 of the *Autonomous Sanctions Regulations 2011* are sanction laws.

Item 2 of Schedule 1 of the Instrument provides that regulations 11, 11A, 11B and 13E of the *Customs (Prohibited Exports) Regulations 1958* are sanction laws.