

Explanatory Statement

Issued by the Authority of the Minister for Foreign Affairs

Autonomous Sanctions Act 2011

Autonomous Sanctions (Sanction Law) Amendment Declaration 2012 (No. 1)

The purpose of the *Autonomous Sanctions (Sanction Law) Amendment Declaration 2012 (No. 1)* (**Amendment Declaration**) is to make a consequential amendment to the *Autonomous Sanctions (Sanction Law) Declaration 2012* (**Declaration**) to reflect amendments made to the *Autonomous Sanctions Regulations 2011* (**Regulations**) by the *Autonomous Sanctions Amendment Regulation 2012 (No. 1)* (**Amendment Regulation**).

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.

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.

Item 1 of Schedule 1 of the Amendment Declaration substitutes a new Schedule 1 for the Declaration. Schedule 1 specifies the provisions of the laws of the Commonwealth that are sanction laws pursuant to sub-section 6 (1) of the Act. The additional

provisions in Schedule 1 include new regulation 12A (prohibition relating to a sanctioned import) and new regulation 13A (prohibition relating to engagement in a sanctioned commercial activity) of the Regulations.

The Amendment Regulation was subject to extensive consultation with government and non-government stakeholders. This consultation included public and industry consultation sessions in mainland State capital cities in May and June 2012. On 26 June 2012 the Amendment Regulation was published on the Department of Foreign Affairs and Trade website as an exposure draft for three weeks for public comment.

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) Amendment Declaration 2012 (No. 1)

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) Amendment Declaration 2012 (No. 1)

Paragraph 1 – Name of Instrument

Paragraph 1 of the Instrument provides that the name of the Instrument is the *Autonomous Sanctions (Sanction Law) Amendment Declaration 2012 (No. 1)*.

Paragraph 2 – Commencement

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

Paragraph 3 – Amendment of the Autonomous Sanctions (Sanction Law) Declaration 2012

Paragraph 3 of the Instrument provides that Schedule 1 amends the *Autonomous Sanctions (Sanction Law) Declaration 2012*.

Schedule 1 – Sanction Laws

Item 1 of Schedule 1 of the Instrument provides that regulations 12, 12A, 13, 13A, 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.