

Autonomous Sanctions Amendment Regulation 2013 (No. 1)

Select Legislative Instrument No. 198, 2013

I, Quentin Bryce AC CVO, Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Autonomous Sanctions Act 2011*.

Dated 25 July 2013

Quentin Bryce

Governor‑General

By Her Excellency’s Command

Bob Carr

Minister for Foreign Affairs

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1 Name of regulation

 This regulation is the *Autonomous Sanctions Amendment Regulation 2013 (No. 1)*.

2 Commencement

 This regulation commences on the day after it is registered.

3 Authority

 This regulation is made under the *Autonomous Sanctions Act 2011*.

4 Schedule(s)

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Autonomous Sanctions Regulations 2011

1 Subregulation 4(2) (table)

Repeal the table, substitute:

| Countries and export sanctioned goods |
| --- |
| Item | Country | Goods |
| 1 | Fiji | Arms or related matériel. |
| 2 | Iran | (a) Arms or related matériel.(b) Goods mentioned in the Australia Group Common Control Lists, as existing from time to time.(c) Equipment and technology for the oil and gas industry, or the petrochemical industry, of a kind specified by the Minister in an instrument under this regulation.(d) Newly printed or unissued Iranian denominated bank notes or newly minted or unissued Iranian denominated coinage.(e) Graphite of a kind specified by the Minister in an instrument under this regulation.(f) Raw metals of a kind specified by the Minister in an instrument under this regulation.(g) Semi‑finished metals of a kind specified by the Minister in an instrument under this regulation.(h) Naval equipment of a kind specified by the Minister in an instrument under this regulation.(i) Naval technology of a kind specified by the Minister in an instrument under this regulation.(j) Software for integrating industrial processes, of a kind specified by the Minister in an instrument under this regulation.(k) Vessels designed for the transport or storage of oil, gas or petrochemical product. |
| 3 | Myanmar | Arms or related matériel. |
| 4 | Syria | (a) Arms or related matériel.(b) Equipment and technology, for use in the construction or installation of new power plants for electricity, of a kind specified by the Minister in an instrument under this regulation.(c) Equipment and technology for the oil and gas industry, or the petrochemical industry, of a kind specified by the Minister in an instrument under this regulation.(d) Newly printed or unissued Syrian denominated bank notes or newly minted or unissued Syrian denominated coinage.(e) Equipment, technology or software for the monitoring or interception of internet or telephone communications, of a kind specified by the Minister in an instrument under this regulation.(f) Luxury goods, of a kind specified by the Minister in an instrument under this regulation. |
| 5 | Zimbabwe | Arms or related matériel. |

2 Subregulation 4A(2) (at the end of table item 1, column headed “Goods”)

Add:

|  |  |  |
| --- | --- | --- |
|  |  | (d) Natural gas products of a kind specified by the Minister in an instrument under this regulation |

3 Regulation 5

Repeal the regulation, substitute:

5 Sanctioned service

 (1) For these Regulations, a ***sanctioned service*** is the provision to a person of:

 (a) technical advice, assistance or training; or

 (b) financial assistance; or

 (c) a financial service; or

 (d) another service;

if it assists with, or is provided in relation to, a sanctioned supply.

 (2) For these Regulations, a ***sanctioned service*** is also the provision to a person of:

 (a) financial assistance; or

 (b) a financial service;

if it assists with, or is provided in relation to, a sanctioned import.

 (3) For these Regulations, a ***sanctioned service*** is also the provision of a service mentioned in an item of the following table in respect of an oil tanker or cargo vessel:

 (a) flying the flag of the Islamic Republic of Iran; or

 (b) owned, chartered or operated, directly or indirectly, by an Iranian person, entity or body.

| Services |
| --- |
| Item | Service |
| 1 | A classification service of any kind. |
| 2 | The supervision of, or participation in, the design, construction or repair of ships and their parts, including any of the following:(a) blocks;(b) elements;(c) machinery;(d) electrical installations;(e) control installation;as well as any related technical assistance, financing or financial assistance. |
| 3 | The inspection, testing or certification of marine equipment, materials or components as well as the supervision of the installation on board and the supervision of system integration. |
| 4 | The carrying out of surveys, inspections, audits or visits and the issuance, renewal or endorsement of the relevant certificates and documents of compliance, on behalf of the flag State administration, in accordance with any of the following:(a) the International Convention for the Safety of Life at Sea, 1974 ***(SOLAS 1974***), as amended and its 1988 Protocol;(b) the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (***MARPOL 73/78***), as amended;(c) the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (***COLREGs 1972***), as amended;(d) the International Convention on Load Lines, 1966 (***LL 1966***) and its 1988 Protocol;(e) the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (***STCW***), as amended;(f) the International Convention on Tonnage Measurement of Ships, 1969 (***TONNAGE 1969***). |

Examples: Classification services include the following:

(a) the production and application of classification rules or technical specifications concerning the design, construction, equipment and maintenance of ships, as well as shipboard management systems;

(b) the carrying out of surveys and inspections in accordance with classification rules and procedures;

(c) the assignment of a class notation and the delivery, endorsement or renewal of certificates of compliance with classification rules or specifications.

 (4) For these Regulations, a ***sanctioned service*** is also, for a country mentioned in an item of the following table, the provision to the country, or a person for use in the country, of:

 (a) technical advice, assistance or training; or

 (b) financial assistance; or

 (c) a financial service; or

 (d) another service;

if it assists with, or is provided in relation to, an activity mentioned in the item.

| Countries and activities |
| --- |
| Item | Country | Activity |
| 1 | Fiji | (a) A military activity.(b) The manufacture, maintenance or use of an export sanctioned good for Fiji. |
| 2 | Iran | (a) A military activity.(b) The manufacture, maintenance or use of an export sanctioned good for Iran. |
| 3 | Myanmar | (a) A military activity.(b) The manufacture, maintenance or use of an export sanctioned good for Myanmar. |
| 4 | Syria | (a) A military activity.(b) The manufacture, maintenance or use of an export sanctioned good for Syria. |
| 5 | Zimbabwe | (a) A military activity.(b) The manufacture, maintenance or use of an export sanctioned good for Zimbabwe. |

 (5) For these Regulations, a ***sanctioned service*** is also,for an entity or person mentioned in an item of the following table,the provision to the entity or person of:

 (a) technical advice, assistance or training; or

 (b) financial assistance; or

 (c) a financial service; or

 (d) another service;

if it assists with, or is provided in relation to, an activity involving the supply, sale, transfer, import, purchase or transport of an item of gold, precious metals and diamonds.

| Entities and persons |
| --- |
| Item | Entity or person |
| 1 | The government of Iran. |
| 2 | A public body, corporation, or agency of the government of Iran. |
| 3 | The government of Syria. |
| 4 | A public body, corporation, or agency of the government of Syria. |
| 5 | A person, entity or body acting on behalf or at the direction of an entity mentioned in any of items 1 to 4. |
| 6 | An entity or body owned or controlled by an entity mentioned in any of items 1 to 5. |

4 Subregulation 6(1) (table)

Repeal the table, substitute:

| Countries, persons and entities |
| --- |
| Item | Country | Activity |
| 1 | DPRK | A person or entity that the Minister is satisfied is associated with the DPRK’s weapons of mass‑destruction program or missiles program. |
| 2 | FFRY | (a) A person who has been indicted for an offence by the ICTY (whether or not the person has been convicted of the offence).(b) A person who has been indicted for an offence within the jurisdiction of the ICTY by a domestic court in Bosnia‑Herzegovina, Croatia or Serbia (whether or not the person has been convicted of the offence).(c) A person who is subject to an Interpol arrest warrant related to an offence within the jurisdiction of the ICTY.(d) A person who the Minister is satisfied is a supporter of the former regime of Slobodan Milosevic.(e) A person who is suspected of assisting a person who is:(i) indicted by the ICTY; and(ii) not currently detained by the ICTY. |
| 3 | Fiji | (a) Commodore Josaia Voreqe Bainimarama.(b) A person who the Minister is satisfied is a supporter of the coup with which Commodore Bainimarama is associated, based on any combination of the person’s position, actions and statements.(c) A Minister of the interim government.(d) An officer of the Republic of Fiji Military Forces of the rank of Warrant Officer or higher.(e) An immediate family member of a person mentioned in paragraph (a), (b), (c) or (d).(f) A member of the Republic of Fiji Military Forces.(g) A person who the Minister is satisfied is a senior public servant appointed by the interim government.(h) A person appointed to, or otherwise engaged on, a government board or a quasi‑government board by the interim government.(i) A member of the judiciary of Fiji. |
| 4 | Iran | (a) A person or entity that the Minister is satisfied has contributed to, or is contributing to, Iran’s nuclear or missile programs.(b) A person or entity that the Minister is satisfied has assisted, or is assisting, Iran to violate:(i) Resolution 1737, 1747, 1803 or 1929 of the United Nations Security Council; or(ii) a subsequent resolution relevant to a resolution mentioned in subparagraph (i). |
| 5 | Libya | (a) A person who the Minister is satisfied was a close associate of the former Qadhafi regime.(b) An entity that the Minister is satisfied is under the control of one or more members of Muammar Qadhafi’s family.(c) A person or entity that the Minister is satisfied has assisted, or is assisting, in the violation of:(i) Resolution 1970 or 1973 of the United Nations Security Council; or(ii) a subsequent resolution relevant to a resolution mentioned in subparagraph (i).(d) An immediate family member of a person mentioned in paragraph (a) or (c). |
| 6 | Myanmar | (a) A former member of the State Peace and Development Council (SPDC).(b) A person who the Minister is satisfied is a business associate of the Myanmar military.(c) A current or former minister or a current or former deputy minister.(d) A current or former military officer of the rank of Brigadier‑General or higher.(e) A senior official in any of Myanmar’s security or corrections agencies.(f) A current or former senior officeholder of the Union Solidarity and Development Party (USDP) or the Union Solidarity and Development Association (USDA).(g) A senior official or executive in a state‑owned or a military‑owned enterprise.(h) An immediate family member of a person mentioned in any of paragraphs (a) to (g). |
| 7 | Syria | (a) A person or entity that the Minister is satisfied is providing support to the Syrian regime.(b) A person or entity that the Minister is satisfied is responsible for human rights abuses in Syria, including:(i) the use of violence against civilians; and(ii) the commission of other abuses. |
| 8 | Zimbabwe | A person or entity that the Minister is satisfied is engaged in, or has engaged in, activities that seriously undermine democracy, respect for human rights and the rule of law in Zimbabwe. |

5 After subregulation 12(1)

Insert:

 (1A) Strict liability applies to the circumstance that the sanctioned supply is not in accordance with a permit under regulation 18.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: Strict liability is not imposed on an individual for any other element of an offence under section 16 of the Act that relates to a contravention of this regulation.

6 After subregulation 12A(1)

Insert:

 (1A) Strict liability applies to the circumstance that the sanctioned import is not in accordance with a permit under regulation 18.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: Strict liability is not imposed on an individual for any other element of an offence under section 16 of the Act that relates to a contravention of this regulation.

7 After subregulation 13(1)

Insert:

 (1A) Strict liability applies to the circumstance that the sanctioned service is not in accordance with a permit under regulation 18.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: Strict liability is not imposed on an individual for any other element of an offence under section 16 of the Act that relates to a contravention of this regulation.

8 After subregulation 13A(1)

Insert:

 (1A) Strict liability applies to the circumstance that the sanctioned commercial activity is not in accordance with a permit under regulation 18.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: Strict liability is not imposed on an individual for any other element of an offence under section 16 of the Act that relates to a contravention of this regulation.

9 After subregulation 14(1)

Insert:

 (1A) Strict liability applies to the circumstance that the making available of the asset is not in accordance with a permit under regulation 18.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: Strict liability is not imposed on an individual for any other element of an offence under section 16 of the Act that relates to a contravention of this regulation.

10 After subregulation 15(1)

Insert:

 (1A) Strict liability applies to the circumstance that the use or dealing with the asset is not in accordance with a permit under regulation 18.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: Strict liability is not imposed on an individual for any other element of an offence under section 16 of the Act that relates to a contravention of this regulation.