



Anti-Money Laundering and Counter-Terrorism Financing (Iran Countermeasures) Regulation 2014

Select Legislative Instrument No. 35, 2014

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 *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Dated 25 March 2014

Quentin Bryce
Governor-General

By Her Excellency's Command

Michael Keenan
Minister for Justice

OPC60405 - A

Contents

1	Name of regulation	1
2	Commencement	1
3	Authority	1
4	Schedule(s)	1
5	Definitions	1
6	Declaration of prescribed foreign country	2
7	Prohibition of transactions	2
8	Transaction exemption	3
9	Personal exemption	4
Schedule 1—Repeal		5
<i>Anti-Money Laundering and Counter-Terrorism Financing Regulations 2008</i>		5

1 Name of regulation

This regulation is the *Anti-Money Laundering and Counter-Terrorism Financing (Iran Countermeasures) Regulation 2014*.

2 Commencement

This regulation commences on 1 April 2014.

3 Authority

This regulation is made under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In this regulation:

Act means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Foreign Affairs Department means the Department administered by the Foreign Affairs Minister.

Secretary means the Secretary of the Foreign Affairs Department.

Note: A number of expressions used in this Regulation are defined in the Act, including the following:

- (a) designated service;
- (b) person;
- (c) reporting entity;
- (d) transaction.

6 Declaration of prescribed foreign country

Iran is declared to be a prescribed foreign country for the purposes of the Act.

7 Prohibition of transactions

- (1) For subsection 102(1) of the Act, a transaction is prohibited if:
- (a) it is a transaction that involves the provision by a reporting entity of one or more of the designated services mentioned in any of items 17, 29, 30, 31, 32 and 34 of table 1 in section 6 of the Act; and
 - (b) the reporting entity is aware, or ought reasonably to be aware, at the time of the transaction, that a party to the transaction is:
 - (i) an individual who is physically present in Iran; or
 - (ii) a corporation incorporated in Iran; and
 - (c) the value of the money or property involved in the transaction is not less than \$20 000; and
 - (d) none of the parties to the transaction is:
 - (i) the Commonwealth, a State or a Territory; or
 - (ii) a person exempted under section 9; and
 - (e) the transaction does not relate to:
 - (i) the Iranian Embassy in Australia; or
 - (ii) the head or a member of the diplomatic staff of the Iranian Embassy who is entitled to any privileges or immunities under the *Diplomatic Privileges and Immunities Act 1967*; or
 - (iii) the head or a member of staff of a consular post operated by Iran in Australia or an external Territory who is entitled to any privileges or immunities under the *Consular Privileges and Immunities Act 1972*; or
 - (iv) the Australian Embassy in Iran; or
 - (v) the head or a member of the diplomatic staff of the Australian Embassy who is entitled to any privileges or immunities under the Vienna Convention on Diplomatic Relations; and

- (f) the transaction is not exempt under section 8.
- (2) A reporting entity must not provide a designated service in relation to a transaction prohibited under subsection (1).

Penalty: 50 penalty units.

8 Transaction exemption

- (1) A person may apply for a transaction to be exempt from section 7.
- (2) The application must be made to the Foreign Affairs Department in a form approved by the Secretary.
- (3) The Secretary may exempt the transaction from section 7 if the Secretary considers it appropriate to do so having regard to:
 - (a) the objects of the Act; and
 - (b) whether the transaction is necessary for the provision of a basic expense, including the following:
 - (i) foodstuffs;
 - (ii) rent or mortgage;
 - (iii) medicines or medical treatment;
 - (iv) taxes;
 - (v) insurance premiums;
 - (vi) public utility charges;
 - (vii) reasonable professional fees;
 - (viii) reimbursement of expenses associated with the provision of legal services; and
 - (c) whether the transaction is legally required because it is necessary to satisfy a judicial, administrative or arbitral lien or judgment that was made before 1 March 2012; and
 - (d) whether the transaction is contractually required under a contract, agreement, or obligation made before 1 March 2012; and
 - (e) whether the transaction is a significant trade transaction that, if not completed, would have an adverse effect on Australia's trade relationship with Iran or the viability of an Australian business; and

- (f) whether the transaction is a humanitarian transaction related to the provision of aid or humanitarian services.
- (4) The Secretary is taken to have exempted the transaction if:
 - (a) the Secretary does not give the person, within 28 days after the application is made, either:
 - (i) written notice of a decision under subsection (3); or
 - (ii) written notice that the application is still being considered; or
 - (b) the Secretary gives the person written notice (within 28 days after the application is made) that the application is still being considered, but does not give the person written notice of a decision under subsection (3) within 56 days after the application is made.

9 Personal exemption

- (1) A person may apply for exemption from section 7.
- (2) The application must be made to the Foreign Affairs Department in a form approved by the Secretary.
- (3) The Secretary may exempt the person from section 7 if the Secretary considers it appropriate to do so having regard to the objects of the Act.

Note 1: Section 5 of the Act defines *person* to mean any of the following:

- (a) an individual;
- (b) a company;
- (c) a trust;
- (d) a partnership;
- (e) a corporation sole;
- (f) a body politic.

Note 2: Sections 237, 238 and 239 of the Act provide for the application of the Act to partnerships, unincorporated associations and trusts (with 2 or more trustees) as if they were persons, but with the changes set out in those sections.

Schedule 1—Repeal

Anti-Money Laundering and Counter-Terrorism Financing Regulations 2008

1 The whole of the Regulations

Repeal the Regulations.

No. 35, 2014	<i>Anti-Money Laundering and Counter-Terrorism Financing (Iran Countermeasures) Regulation 2014</i>	5
OPC60405 - A		