



# **Charter of the United Nations (Sanctions—Yemen) Regulation 2014**

**Select Legislative Instrument No. 49, 2014**

made under the

*Charter of the United Nations Act 1945*

## **Compilation No. 2**

**Compilation date:** 19 December 2015

**Includes amendments up to:** SLI No. 234, 2015

**Registered:** 11 February 2016

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Charter of the United Nations (Sanctions—Yemen) Regulation 2014* that shows the text of the law as amended and in force on 19 December 2015 (the *compilation date*).

This compilation was prepared on 1 February 2016.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw ([www.comlaw.gov.au](http://www.comlaw.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1 Name of regulation

This regulation is the *Charter of the United Nations (Sanctions—Yemen) Regulation 2014*.

### 3 Authority

This regulation is made under the *Charter of the United Nations Act 1945*.

### 4 Definitions

In this regulation:

*Act* means the *Charter of the United Nations Act 1945*.

*arms or related matériel* includes the following:

- (a) weapons;
- (b) ammunition;
- (c) military vehicles and equipment;
- (d) paramilitary equipment;
- (e) spare parts for the things mentioned in paragraphs (a) to (d).

*Australian aircraft* has the same meaning as in the *Criminal Code*.

*Australian ship* has the same meaning as in the *Criminal Code*.

*Committee* means the Committee established under paragraph 19 of Resolution 2140.

*controlled asset* means an asset that is owned or controlled, directly or indirectly, by:

- (a) a designated person or entity; or
- (b) a person or entity acting on behalf of or at the direction of a designated person or entity; or

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- (c) an entity owned or controlled by a designated person or entity.

***designated person or entity*** means a person or entity:

- (a) designated by the Committee for paragraph 11 of Resolution 2140; or
- (b) that the Security Council decides is subject to the measures imposed by paragraph 11 of Resolution 2140.

***export sanctioned goods*** has the meaning given by section 4A.

***paragraph 14 person or entity*** means a person or entity:

- (a) named in paragraph 14 of Resolution 2216; or
- (b) listed in the annex of Resolution 2216; or
- (c) designated by the Committee in accordance with paragraph 20(d) of Resolution 2216; or
- (d) acting on behalf of, or at the direction of, in Yemen, a person or entity mentioned in paragraph (a), (b) or (c).

***paramilitary equipment*** means any of the following:

- (a) batons, clubs, riot sticks or similar devices of a kind used for law enforcement purposes;
- (b) body armour, including:
  - (i) bullet-resistant apparel; and
  - (ii) bullet-resistant pads; and
  - (iii) protective helmets;
- (c) handcuffs, leg-irons or other devices used for restraining prisoners;
- (d) riot protection shields;
- (e) whips.

***Resolution 2140*** means Resolution 2140 (2014) of the Security Council, adopted on 26 February 2014.

***Resolution 2216*** means Resolution 2216 (2015) of the Security Council, adopted on 14 April 2015.

***sanctioned service*** has the meaning given by section 4B.

*sanctioned supply* has the meaning given by section 4C.

#### **4A Definition of *export sanctioned goods***

*Export sanctioned goods* means arms or related matériel.

#### **4B Definition of *sanctioned service***

*Sanctioned service*:

- (a) means the provision to a paragraph 14 person or entity of technical assistance, training, financial or other assistance, related to:
  - (i) military activities; or
  - (ii) the provision, maintenance or use of any arms or related matériel; and
- (b) includes the provision to a paragraph 14 person or entity of armed mercenary personnel whether or not originating in Australia.

#### **4C Definition of *sanctioned supply***

A person makes a *sanctioned supply* if:

- (a) the person supplies, sells or transfers goods to another person; and
- (b) the goods are export sanctioned goods; and
- (c) as a direct or indirect result of the supply, sale or transfer, the goods are transferred to, or for the benefit of, a paragraph 14 person or entity.

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## Part 2—UN sanction enforcement laws

Note: See section 2B of the Act.

### 4D Prohibitions relating to a sanctioned supply

- (1) A person contravenes this subsection if the person makes a sanctioned supply.
- (2) A person contravenes this subsection if the person (whether or not in Australia, and whether or not an Australian citizen) uses the services of an Australian ship or an Australian aircraft to transport export sanctioned goods in the course of, or for the purpose of, making a sanctioned supply.
- (3) A body corporate contravenes this subsection 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 sanctioned supply.
- (4) Section 15.1 of the *Criminal Code* (Extended geographical jurisdiction—category A) applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

Note 1: Subsection (4) has the effect that the offence has extraterritorial operation.

Note 2: This section is specified as a UN sanction enforcement law in the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

### 4E Prohibitions relating to a sanctioned service

- (1) A person contravenes this subsection if the person provides a sanctioned service.
- (2) A person contravenes this subsection if the person (whether or not in Australia, and whether or not an Australian citizen) uses the



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services of an Australian ship or an Australian aircraft in the course of, or for the purpose of, providing a sanctioned service.

- (3) A body corporate contravenes this subsection 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 sanctioned service.
- (4) Section 15.1 of the *Criminal Code* (Extended geographical jurisdiction—category A) applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

Note 1: Subsection (4) has the effect that the offence has extraterritorial operation.

Note 2: This section is specified as a UN sanction enforcement law in the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

## **5 Prohibition relating to dealings with designated persons or entities**

- (1) A person contravenes this section 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 section 7.
- (2) For an offence under section 27 of the Act that relates to a contravention of subsection (1), strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under section 7.

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

- (3) Section 15.1 of the *Criminal Code* (Extended geographical jurisdiction—Category A) applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

Note 1: This has the effect that the offence has extraterritorial operation.

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Note 2: This section is specified as a UN sanction enforcement law in the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

### 6 Prohibition relating to controlled assets

- (1) A person contravenes this section 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 section 7.
- (2) For an offence under section 27 of the Act that relates to a contravention of subsection (1), strict liability applies to the circumstance that the use of, or dealing with, the asset is not authorised by a permit under section 7.

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

- (3) Section 15.1 of the *Criminal Code* (Extended geographical jurisdiction—Category A) applies to an offence under section 27 of the Act that relates to a contravention of subsection (1).

Note 1: This has the effect that the offence has extraterritorial operation.

Note 2: This section is specified as a UN sanction enforcement law in the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

### 7 Permit for assets and 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 subsection 5(1); or
  - (b) a use of, or dealing with, a controlled asset that would otherwise contravene subsection 6(1).

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Note: Section 13A of the Act applies to a permit granted under this section.

- (2) The application must be for a basic expense dealing, legally required dealing, contractual dealing, required payment dealing or extraordinary expense dealing as defined in regulation 5 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008*.
- (3) The application must specify which kind of dealing mentioned in subsection (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
  - (b) may grant a permit only if 5 business days have passed since the notice was given, and the Committee has not advised against granting a 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 a required payment dealing, the Minister:
  - (a) must notify the Committee of the application; and
  - (b) may grant a permit only if 10 business days have passed since the notice was given.
- (7) If the application is for an extraordinary expense dealing, the Minister:
  - (a) must notify the Committee of the application; and
  - (b) may grant a permit only with the approval of the Committee.
- (8) The 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 this section.

## Part 3—Miscellaneous

### 8 Delegations by Minister

- (1) The Minister may delegate the Minister's powers and functions under this regulation (other than this power of delegation) to:
  - (a) the Secretary of the Department; or
  - (b) an SES employee, or acting SES employee, in the Department.
- (2) The delegation must be in writing.
- (3) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

A = Act	o = order(s)
ad = added or inserted	Ord = Ordinance
am = amended	orig = original
amdt = amendment	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
c = clause(s)	pres = present
C[x] = Compilation No. x	prev = previous (prev...) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislative Instruments	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LI = Legislative Instrument	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Number and year</b>	<b>FRLI registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
49, 2014	16 May 2014 (F2014L00551)	17 May 2014 (s 2)	
192, 2014	15 Dec 2014 (F2014L01701)	Sch 1 (item 3): 16 Dec 2014 (s 2)	—
234, 2015	18 Dec 2015 (F2015L02081)	19 Dec 2015 (s 2(1) item 1)	—

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s 2 .....	rep LIA s 48D
s 4 .....	am No 192, 2014; No 234, 2015
s 4A .....	ad No 234, 2015
s 4B.....	ad No 234, 2015
s 4C.....	ad No 234, 2015
<b>Part 2</b>	
s 4D .....	ad No 234, 2015
s 4E.....	ad No 234, 2015

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