Explanatory Statement

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

Charter of the United Nations (Listed Persons and Entities) Amendment (No. 4) Instrument 2026

The purpose of the *Charter of the United Nations (Listed Persons and Entities) Amendment (No. 4) Instrument 2026* (the 2026 Instrument) is to amend the *Charter of the United Nations (Listed Persons and Entities) Instrument 2022* (the 2022 Instrument) to re-list 15 persons and two entities for targeted financial sanctions under Part 4 of the *Charter of the United Nations Act 1945* (the Act) (also known as counter-terrorism financing sanctions).

Targeted financial sanctions prohibit individuals and bodies corporate from using or dealing with assets owned or controlled by, or making an asset available directly or indirectly to, a listed person or entity.

The Act provides legislative approval for the Charter of the United Nations (the Charter) in Australian law. Part 4 of the Act gives effect to United Nations Security Council (UNSC) decisions that relate to terrorism and dealing with assets, which are made under Chapter VII of the Charter and that Article 25 of the Charter requires Australia to carry out.

Section 15 of the Act, read in conjunction with subregulation 20(1) of the *Charter of the United Nations (Dealing with Assets) Regulations 2008* (Dealing with Assets Regulations), obliges the Minister for Foreign Affairs (the Minister) to list a person or entity for targeted financial sanctions, if the Minister is satisfied on reasonable grounds that they are a person or entity mentioned in paragraph 1(c) of UNSC Resolution 1373 (2001) (UNSCR 1373). That is, that they are: a person who commits, or attempts to commit, terrorist acts or participates in or facilitates the commission of terrorist acts; an entity owned or controlled directly or indirectly by such persons; or a person or entity acting on behalf of, or at the direction of, such persons and associated persons and entities. The 2026 Instrument implements Australia's international obligation to cooperate on the prevention of terrorist financing.

UNSCR 1373 is published on the following website (www.undocs.org/S/RES/1373(2001)).

The 2022 Instrument comprises the list of persons and entities that are designated persons or entities under Part 4 of the Act. Regulation 40 of the Dealing with Assets Regulations requires the Department to maintain a document that sets out, amongst other things, all persons and entities that are currently designated persons or entities, which includes persons or entities under Part 4 of the Act. This consolidated list is available to the public on the DFAT website at (https://www.dfat.gov.au/international-relations/security/sanctions/consolidated-list).

Consideration of human rights

The 2026 Instrument advances human rights of individuals broadly by restricting the access of listed persons and entities to assets that could be used to commit or facilitate terrorist acts. Australia endeavours to comply with its obligations under international human rights laws, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

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Effect of the 2026 Instrument

The effect of the 2026 Instrument is to subject the persons and entities listed in Schedule 1 to the 2026 Instrument to targeted financial sanctions. The listings are made under section 15 of the Act on the basis that the Minister is satisfied that the persons and entities meet the listing criteria set out in subregulation 20(1) of the Dealing with Assets Regulations. That is, that they are a person or entity mentioned in paragraph 1(c) of UNSCR 1373.

Broadly, the effect of targeted financial sanctions under the Act is to:

- prohibit individuals and bodies corporate from using or dealing with assets owned or controlled by a listed person or entity, unless the Minister permits them to do so; and
- prohibit individuals and bodies corporate from making an asset available directly or indirectly to a listed person or entity, unless the Minister permits them to do so.

Listings under section 15 of the Act cease to have effect after three years (subsection 15A(1) of the Act), unless the Minister declares that a listing continues to have effect (subsection 15A(2) of the Act). Alternatively, subsection 15A(6) of the Act also envisages the possibility of re-listing a person or entity who is already listed.

Further details of the 2026 Instrument are set out in Attachment A.

The 2022 Instrument is exempt from sunsetting under paragraph 54(2)(b) of the *Legislation Act 2003* and table item 1 of regulation 11 of the *Legislation (Exemptions and Other Matters) Regulation 2015* on the basis that the Instrument's sole or primary purpose is to give effect to an international obligation of Australia. This international obligation arises from decisions of the United Nations Security Council that Australia is required to carry out under Article 25 of the Charter of the United Nations.

The sole purpose of the 2026 Instrument is to amend the 2022 Instrument. For this reason, section 48A of the *Legislation Act 2003* applies to automatically repeal the 2026 Instrument and the sunsetting framework under Part 4 of Chapter 3 of the *Legislation Act 2003* will not be engaged for the 2026 Instrument.

The Office of Impact Analysis (OIA) has advised that a Regulation Impact Statement is not required for listing instruments of this nature (OIA reference: OBPR22-01748).

A Statement of Compatibility with Human Rights of the 2026 Instrument prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at Attachment B.

Consultation

The measures imposed through the 2026 Instrument were subject to thorough consultation with Australian Government agencies as well as consultation with relevant international partners.

In accordance with standard practice, DFAT also invited submissions from listed persons and entities or an authorised representative to inform the Minister's consideration of their listing under Part 4 of the Act. The invitation was posted on the DFAT website. The consultation period opened on 21 August 2026 and closed at 5.00pm AEST on 11 September 2025. One submission was received.

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ATTACHMENT A

Details of the Charter of the United Nations (Listed Persons and Entities) Amendment (No. 4) Instrument 2026

Section 1 – Name

The title of the instrument is the *Charter of the United Nations (Listed Persons and Entities) Amendment (No. 4) Instrument 2026* (the 2026 Instrument).

Section 2 – Commencement

The 2026 Instrument commences on the day after the instrument is registered.

Section 3 – Authority

The 2026 Instrument is made under section 15 of the *Charter of the United Nations Act 1945* (the Act).

Section 4 – Schedules

Each instrument that is specified in a Schedule of the 2026 Instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the 2026 Instrument has effect according to its terms.

Schedule 1 – Amendments

Charter of the United Nations (Listed Persons and Entities) Instrument 2022 (the Principal Instrument)

Item 1

Clause 1 of Schedule 1 to the Principal Instrument sets out entities that, by operation of subsection 15(1) of the Act and section 5 of the Principal Instrument, are listed by the Minister for counter-terrorism financing sanctions.

Item 1 repeals and substitutes two entities listed in the table at Clause 1 of Schedule 1 to the Principal Instrument. The purpose of this item is to make new listings that are the same in substance as the earlier listings of these entities as contemplated by paragraph 15A(6)(c) of the Act.

The entities are listed for targeted financial sanctions on the basis that the Minister is satisfied on reasonable grounds that they are: an entity owned or controlled directly or indirectly by a person who commits, or attempts to commit, terrorist acts or participates in or facilitates the commission of terrorist acts; or an entity acting on behalf of, or at the direction of, such persons and associated entities.

Item 2

Clause 1 of Schedule 2 to the Principal Instrument sets out persons that, by operation of subsection 15(1) of the Act and section 6 of the Principal Instrument, are listed by the Minister for targeted financial sanctions.

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Item 2 repeals and substitutes 15 persons listed in the table at Clause 1 of Schedule 2 to the Principal Instrument. The purpose of this item is to make new listings that are the same in substance as the earlier listing of each person as contemplated by paragraph 15A(6)(c) of the Act.

These persons are listed for targeted financial sanctions as the Minister is satisfied on reasonable grounds that they are: a person who commits, or attempts to commit, terrorist acts or participates in or facilitates the commission of terrorist acts; or a person acting on behalf of, or at the direction of, such persons and associated persons.

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ATTACHMENT B

Statement of Compatibility with Human Rights

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

Charter of the United Nations (Listed Persons and Entities) Amendment (No. 4) Instrument 2026

This Legislative Instrument is 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*.

Overview of the Legislative Instrument

The purpose of the *Charter of the United Nations (Listed Persons and Entities) Amendment (No. 4) Instrument 2026* (the 2026 Instrument) is to amend the *Charter of the United Nations (Listed Persons and Entities) Instrument 2022* (the 2022 Instrument) to list 15 persons and two entities for targeted financial sanctions under Part 4 of the *Charter of the United Nations Act 1945* (the Act) (also known as counter-terrorism financing sanctions).

Targeted financial sanctions prohibit individuals and bodies corporate from using or dealing with assets owned or controlled by, or making an asset available directly or indirectly to, a listed person or entity.

The Act provides legislative approval for the Charter of the United Nations (the Charter) in Australian law. Part 4 of the Act gives effect to United Nations Security Council (UNSC) decisions that relate to terrorism and dealing with assets, which are made under Chapter VII of the Charter and that Article 25 of the Charter requires Australia to carry out.

Section 15 of the Act, read in conjunction with subregulation 20(1) of the *Charter of the United Nations (Dealing with Assets) Regulations 2008* (Dealing with Assets Regulations), obliges the Minister for Foreign Affairs (the Minister) to list a person or entity for targeted financial sanctions, if the Minister is satisfied on reasonable grounds that they are a person or entity mentioned in paragraph 1(c) of UNSC Resolution 1373 (2001) (UNSCR 1373). That is, that they are: a person who commits, or attempts to commit, terrorist acts or participates in or facilitates the commission of terrorist acts; an entity owned or controlled directly or indirectly by such persons; or a person or entity acting on behalf of, or at the direction of, such persons and associated persons and entities. The 2026 Instrument implements Australia's international obligation to cooperate on the prevention of terrorist financing.

UNSCR 1373 is published on the following website (www.undocs.org/S/RES/1373(2001)).

The human rights compatibility of the 2026 Instrument is addressed by reference to each of the human rights engaged below.

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Human rights implications

The 2026 Instrument engages the following human rights and freedoms contained in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR):

- the right to life (Article 6 of the ICCPR);
- the right to freedom of thought, conscience and religion (Article 18 of the ICCPR);
- the prohibition on the advocacy of national, racial or religious hatred (Article 20 of the ICCPR);
- the right to self-determination, including to freely dispose of natural wealth and resources (Article 1 of the ICCPR and Article 1 of the ICESCR);
- the right to an adequate standard of living (Article 11(1) of the ICESCR); and
- the right to privacy (Article 17 of the ICCPR).

It is well accepted that international human rights law obligations are owed to individuals only, and are not owed to non-natural persons, such as bodies corporate or bodies politic. This statement considers the extent to which the measures in the 2026 Instrument impact the human rights of individuals located in Australia.

The right to life; to freedom of thought, conscience and religion; and to freedom from the advocacy of national, racial or religious hatred

The targeted financial sanctions will restrict the access of listed persons and entities to assets that could be used to carry out or facilitate terrorist acts. Terrorist acts may take lives, use acts of violence to promote a particular way of thought, belief or religion (thereby limiting the rights of others) or advocate for national, racial or religious hatred. Targeted financing sanctions are therefore intended to promote human rights by reducing the threat of terrorist acts.

The right to self-determination, including to freely dispose of natural wealth and resources

Article 1 of the ICCPR and Article 1 of the ICESCR provide a right to self-determination, including to freely dispose of natural wealth, resources, and assets.

The effect of targeted financial sanctions is that individuals and bodies corporate are unable to make assets available to those listed under section 15 of the Act. It also means that an individual or body corporate (including a listed person) who holds an asset owned or controlled by a listed person or entity is unable to use, or deal with, that asset. This limits their ability to freely dispose of their natural wealth, resources and assets.

The objective of the 2026 Instrument is to give effect to Australia's international obligation to suppress terrorist financing. The imposition of targeted financial sanctions through the listing of persons and entities which participate in or facilitate terrorist acts helps achieve this objective by restricting the access of such persons or entities to the financial means necessary to undertake terrorist activities.

Limitations on these rights may be addressed by listed persons and entities applying for their listing to be revoked under section 17 of the Act. The application must set out the circumstances relied upon to justify the application. To assist with an application, the Department of Foreign Affairs and Trade will provide a listed person or entity, or their authorised representative, with an unclassified statement of reasons for the listing upon written request.

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Australia's counter-terrorism financing sanctions listings are also subject to periodic review. Listings under section 15 of the Act cease to have effect after three years (subsection 15A(1) of the Act), unless the Minister declares that a listing continues to have effect (subsection 15A(2) of the Act). Rather than make such a declaration, the Minister may alternatively make a new listing that is the same in substance as another listing (paragraph 15A(6)(c)). These provisions ensure the listings remain current and appropriate.

The measures in the 2026 Instrument which may limit a right to self-determination are reasonable, necessary and proportionate to achieving the objectives of suppressing terrorism financing and complying with Australia's international obligations.

The right to an adequate standard of living

The right to an adequate standard of living is contained in Article 11(1) of ICESCR and requires States to ensure the availability and accessibility of the resources that are essential to the realisation of the right, including adequate food, clothing, and housing. Article 4 of the ICESCR provides that this right may be subject to such limitations 'as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society'.

Any limitation on the enjoyment of Article 11(1) of the ICESCR (i.e. where a listed person's ability to obtain food, clothing and housing are limited by targeted financial sanctions), to the extent that it occurs, is justified in view of the objective of suppressing terrorism financing. In any case, under subsection 22(3) of the Act, the Minister may, on application from the owner or holder of an asset, or on the Minister's own initiative, permit an asset to be made available to a specific person or entity, or authorise a 'freezable asset' to be used or dealt with in a specified way (for example to allow a listed person to access basic necessities).

Under subsection 22(1) of the Act and regulation 31 of the Dealing with Assets Regulations, the Minister may, upon application by the owner or holder of a freezable asset, permit the use or dealing with a freezable asset where the use or dealing is a 'basic expense dealing', a 'contractual dealing' or an 'extraordinary expense dealing'. These dealings may also be authorised by the Minister on their own initiative. Regulation 30 of the Dealing with Assets Regulations defines the sorts of dealings with freezable assets that the Minister may permit in accordance with regulation 31, including a basic expense dealing, which is defined as a dealing 'necessary for basic expenses'. 'Basic expenses' are defined to include foodstuffs, rent or mortgage payments, and medicines or medical treatment. Such authorisations reflect the permitted dealings in relation to listed persons and entities and their assets that are allowed under UNSC Resolution 1452 (2002).

In the event that a listed person or a person who is a member of a listed entity has family members in Australia who may be indirectly adversely affected by the imposition of targeted financial sanctions, such consequences could be mitigated by the Minister authorising dealings between them and the listed person or entity.

This process is a flexible and effective safeguard on any limitation to the enjoyment of Article 11(1) of ICESCR.

The right to privacy

Article 17 of the ICCPR prohibits unlawful or arbitrary interferences with a person's privacy, family, home and correspondence. The use of the term 'arbitrary' in the ICCPR means that any interferences

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with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in the individual circumstances. Arbitrariness connotes elements of injustice, unpredictability, unreasonableness, capriciousness and 'unproportionality'.[1]

Listing a person for targeted financial sanctions involves the publication of personal details (such as their date of birth and / or citizenship) on a consolidated list, which may be considered an interference with an individual's right to privacy.

The 2026 Instrument is not an unlawful interference with an individual's right to privacy as the listings are required by section 15 of the Act, which provides that the Minister must list a person or entity if satisfied on reasonable grounds that they are a person or entity mentioned in paragraph 1(c) of UNSCR 1373. That is, that they are: a person who commits, or attempts to commit, terrorist acts or participates in or facilitates the commission of terrorist acts; an entity owned or controlled directly or indirectly by such persons; or a person or entity acting on behalf of, or at the direction of, such persons and associated persons and entities.

The listings also do not represent an arbitrary interference with an individual's right to privacy. In listing a person under section 15 of the Act for targeted financial sanctions, the Minister uses predictable, publicly available criteria that are codified in legislation and reflect UNSCR 1373. The publication of the personal details of those individuals listed pursuant to the 2026 Instrument is also reasonably necessary to avoid members of the public or institutions from contravening the prohibition on dealing with the assets of, or making funds available to, listed persons.

Accordingly, targeted financial sanctions imposed by the Minister through the listing of specific persons under section 15 of the Act are reasonable, necessary and proportionate to the international obligation to prevent the financing of terrorists and terrorist entities. Any interference with the right to privacy created by the operation of the 2026 Instrument is not arbitrary or unlawful and, therefore, is consistent with Australia's obligations under Article 17 of the ICCPR.

Conclusion

The 2026 Instrument is compatible with human rights because targeted financial sanctions which aim to prevent and suppress terrorism financing promote the rights to life, freedom of thought, conscience and religion, and freedom from national, racial or religious hatred. To the extent that the Instrument may limit human rights, such limitations are reasonable, necessary and proportionate.

[1] Manfred Nowak, *United Nations Covenant on Civil and Political Rights: CCPR Commentary* (NP Engel, 1993) 178.

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