



- F2013C00406

In force

-

Latest Version

View Series



Charter of the United Nations
 (Sanctions—Al-Qaida)
 Regulations 2008

Select Legislative Instrument No. 41, 2008 as amended

made under the

Charter of the United Nations Act 1945

Compilation start date: 18 May 2013

Includes amendments up to: SLI No. 72, 2013
 About this compilation

The compiled instrument

This is a compilation of the *Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008* as amended and in force on 18 May 2013. It includes any amendment affecting the compiled instrument to that date.

This compilation was prepared on 24 June 2013.

The notes at the end of this compilation (the **endnotes**) include information about amending Acts and instruments and the amendment history of each amended provision.

Uncommenced provisions and amendments

If a provision of the compiled instrument is affected by an uncommenced amendment, the text of the uncommenced amendment is set out in the endnotes.

Application, saving and transitional provisions for amendments

If the operation of an amendment is affected by an application, saving or transitional provision, the provision is identified in the endnotes.

Modifications

If a provision of the compiled instrument is affected by a textual modification that is in force, the text of the modifying provision is set out in the endnotes.

Provision ceasing to have effect

If a provision of the compiled instrument has expired or otherwise ceased to have effect in accordance with a provision of the instrument, details of that provision are set out in the endnotes.

Contents

Part 1—

Preliminary

1		
1	Name of Regulations.....	1
2	Commencement.....	1
3	Repeal.....	1
4	Definitions.....	1
5	Export sanctioned goods.....	3
6	Sanctioned supply.....	3
7	Sanctioned goods.....	4

Part 2—UN sanction enforcement

laws

5

- 8..... Prohibitions relating to a sanctioned supply..... 5
- 9..... Prohibitions relating to sanctioned services..... 5
- 10..... Prohibition relating to dealings with designated persons or entities.... 6
- 11..... Prohibition relating to controlled assets..... 6
- 12..... Permit for assets and controlled assets..... 7

Part 3—

Miscellaneous

9

- 13..... Delegations by Minister..... 9

Endnotes

10

Endnote 1—Legislation

history

10

Endnote 2—Amendment

history

11

Endnote 3—Uncommenced amendments

[none]

12

Endnote 4—Misdescribed amendments

[none]

13

1—Preliminary

1.1—Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008*.

1.2—Commencement

These Regulations commence on the day after they are registered.

1.3—Repeal

The *Charter of the United Nations (Sanctions—Afghanistan) Regulations 2001* are repealed.

1.4—Definitions

In these Regulations:

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

arms or related matériel includes:

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

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 1 of Resolution 1267.

controlled asset means:

- (a) an asset of a designated person or entity; or
- (b) funds derived from an asset owned or controlled, directly or indirectly, by:
 - (i) a designated person or entity; or
 - (ii) a person acting on behalf of or at the direction of a designated person or entity.

designated person or entity means:

- (a) Al-Qaida; or
- (b) a person or entity designated by the Committee or by the Security Council for paragraph 1 of Resolution 1989.

export sanctioned goods has the meaning given by regulation 6.

paramilitary equipment means any of the following:

- (a) batons, clubs, riot sticks and 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 and other devices used for restraining prisoners;
- (d) riot protection shields;
- (e) whips;
- (f) parts and accessories designed or adapted for use in, or with, equipment mentioned in paragraphs (a) to (e).

Resolution 1267 means Resolution 1267 (1999) of the Security Council, adopted on 15 October 1999.

Resolution 1989 means Resolution 1989 (2011) of the Security Council, adopted on 17 June 2011.

sanctioned service has the meaning given by regulation 7.

sanctioned supply has the meaning given by regulation 6.

Security Council means the Security Council of the United Nations.

working day means a day that is not a Saturday, a Sunday or public holiday.

Note: In these Regulations:

- (a) the **Minister** is the Minister for Foreign Affairs; and
- (b) **asset** has the meaning given by section 2 of the Act.

Export sanctioned goods

For these Regulations, **export sanctioned goods** means any goods or related matériel.

Sanctioned supply

For these Regulations, 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 a designated person or entity.

Sanctioned service

For these Regulations, **sanctioned service** means the provision of technical advice, assistance or training related to military activities to a designated person or entity.

Part 2—UN sanction enforcement laws

Prohibitions relating to a sanctioned supply

- (1) A person contravenes this regulation if the person makes a sanctioned supply.
- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

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

- (3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if the person 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.
- (4) A body corporate contravenes this regulation if:
 - (a) the body corporate has effective control over the action

- (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.

Note: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

Prohibitions relating to sanctioned services

- (1) A person contravenes this regulation if the person provides a sanctioned service.
- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

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

- (3) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if the person uses the services of an Australian ship or an Australian aircraft in the course of, or for the purpose of, providing a sanctioned service.
- (4) A body corporate contravenes this regulation 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.

Note: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

Prohibition relating to dealings with designated persons or entities

- (1) A person contravenes this regulation if:
 - (a) the person directly or indirectly makes an asset available 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 regulation 12.
- (1A) Strict liability applies to the circumstance that the making available of the asset is not authorised by a permit under regulation 12.

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

- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note 1: Subregulation (2) has the effect that the offence has extraterritorial operation.

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

Prohibition relating to controlled assets

- (1) A person contravenes this regulation 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 regulation 12.
- (1A) Strict liability applies to the circumstance that the use of or dealing with the asset is not authorised by a permit under regulation 12.

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

- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note 1: Subregulation (2) has the effect that the offence has extraterritorial operation.

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

mit 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 subregulation 10(1); or
 - (b) a use of, or dealing with, a controlled asset that would otherwise contravene subregulation 11(1).

Note: Section 13A of the Act applies to a permit granted by the Minister this subregulation.

- (2) An application must be for a basic expense dealing, a contra dealing or an extraordinary expense dealing mentioned in regulation 5 of the *Charter of the United Nations (Dealings with Assets) Regulations 2008*.
- (3) An application must specify which kind of dealing mentioned in subregulation (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 3 working 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 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.
- (6) A permit is subject to any conditions specified in the permit.

Note: Part 2 of the *Charter of the United Nations (Dealings with Assets) Regulations 2008* applies to these Regulations.

3—Miscellaneous

Delegations by Minister

- (1) The Minister may delegate the Minister's powers and functions under these Regulations (other than this power of delegation)
 - (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 exercising powers or functions under the delegation.

Endnotes

Endnote 1—Legislation history

This endnote sets out details of the legislation history of the *Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008*.

Number and year	FRLI registration date	Commencement date	Application, saving and transitional provisions
2008 No. 41	11 Apr 2008 (see F2008L01023)	12 Apr 2008	
2009 No. 6	9 Feb 2009 (see F2009L00282)	10 Feb 2009	—
2009 No. 113	22 June 2009 (see F2009L02396)	23 June 2009	—
2011 No. 65	17 May 2011 (see F2011L00788)	18 May 2011	—
72, 2013	17 May 2013 (see F2013L00791)	Schedule 1: 18 May 2013 (see s. 2)	—

Endnote 2—Amendment history

This endnote sets out the amendment history of the *Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008*.

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted exp. = expired or ceased to have effect	
Provision affected	How affected
Part 1	
r. 1.....	rs. 2009 No. 6; No. 72, 2013
r. 4.....	am. 2009 No. 113; No. 72, 2013
Note to r. 4	am. No. 72, 2013
r. 6.....	am. No. 72, 2013
r. 7.....	am. 2009 No. 6
Part 2	
r. 10.....	am. No. 72, 2013
r. 11.....	am. 2009 No. 6; No. 72, 2013
r. 12.....	am. 2009 No. 113; No. 72, 2013
Part 3	
Part 3.....	ad. 2011 No. 65
r. 13.....	ad. 2011 No. 65

Endnote 3—Uncommenced amendments [none]

There are no uncommenced amendments.

Endnote 4—Misdescribed amendments [none]

There are no misdescribed amendments.