

FOR URUGUAY:

POUR L'URUGUAY:

烏拉圭:

За Уругвай:

POR EL URUGUAY:

Jose Ferrato

Jacobs Varela

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Francisco

Susan F. Guzman

Walter Paz

FOR VENEZUELA:

POUR LE VENEZUELA:

委內瑞拉:

За Венесуэлу:

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FOR YUGOSLAVIA:

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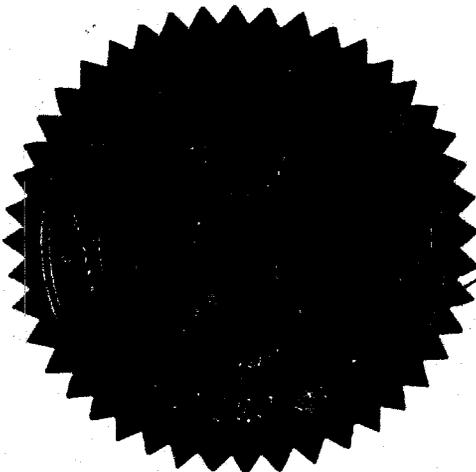
За ЮГОСЛАВИЈУ:

FOR YUGOSLAVIA:

Stanoje Simić

I Certify That the foregoing is a true copy of the Charter of the United Nations, with the Statute of the International Court of Justice annexed thereto, signed in San Francisco, California, on June 26, 1945, in the Chinese, French, Russian, English, and Spanish languages, the signed original of which is deposited in the archives of the Government of the United States of America.

In Testimony Whereof, I, EDWARD R. STETTINIUS, JR., Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by an Assistant Chief, Division of Central Services of the said Department, at the city of Washington, in the District of Columbia, this twenty ^{six} ~~seventh~~ day of June 1945.



E. R. Stettinius Jr.
Secretary of State

By *W. L. Merritt*
Assistant Chief, Division of Central Services



CHARTER
of the
COMMONWEALTH

A handwritten signature in black ink, reading "Elizabeth II", with a faint blue globe logo in the background.

Signed by Her Majesty Queen Elizabeth II, Head of the Commonwealth,
Commonwealth Day 2013



WE THE PEOPLE OF THE COMMONWEALTH:

Recognising that in an era of changing economic circumstances and uncertainty, new trade and economic patterns, unprecedented threats to peace and security, and a surge in popular demands for democracy, human rights and broadened economic opportunities, the potential of and need for the Commonwealth – as a compelling force for good and as an effective network for co-operation and for promoting development – has never been greater,

Recalling that the Commonwealth is a voluntary association of independent and equal sovereign states, each responsible for its own policies, consulting and co-operating in the common interests of our peoples and in the promotion of international understanding and world peace, and influencing international society to the benefit of all through the pursuit of common principles and values,

Affirming that the special strength of the Commonwealth lies in the combination of our diversity and our shared inheritance in language, culture and the rule of law; and bound together by shared history and tradition; by respect for all states and peoples; by shared values and principles and by concern for the vulnerable,

Affirming that the Commonwealth way is to seek consensus through consultation and the sharing of experience, especially through practical co-operation, and further affirming that the Commonwealth is uniquely placed to serve as a model and as a catalyst for new forms of friendship and co-operation in the spirit of the Charter of the United Nations,

Affirming the role of the Commonwealth as a recognised intergovernmental champion of small states, advocating for their special needs; providing policy advice on political, economic and social development issues; and delivering technical assistance,

Welcoming the valuable contribution of the network of the many intergovernmental, parliamentary, professional and civil society bodies which support the Commonwealth and which subscribe and adhere to its values and principles,

Affirming the validity of and our commitment to the values and principles of the Commonwealth as defined and strengthened over the years including: the Singapore Declaration of Commonwealth Principles, the Harare Commonwealth Declaration, the Langkawi Declaration on the Environment, the Millbrook Action Programme, the Latimer House Principles, the Aberdeen Agenda, the Trinidad and Tobago Affirmation of Commonwealth Values and Principles, the Munyonyo Statement on Respect and Understanding, the Lake Victoria Commonwealth Climate Change Action Plan, the Perth Declaration on Food Security Principles, and the Commonwealth Declaration on Investing in Young People,

Affirming our core Commonwealth principles of consensus and common action, mutual respect, inclusiveness, transparency, accountability, legitimacy, and responsiveness,

Reaffirming the core values and principles of the Commonwealth as declared by this Charter:

I.

DEMOCRACY

We recognise the inalienable right of individuals to participate in democratic processes, in particular through free and fair elections in shaping the society in which they live. Governments, political parties and civil society are responsible for upholding and promoting democratic culture and practices and are accountable to the public in this regard. Parliaments and representative local governments and other forms of local governance are essential elements in the exercise of democratic governance.

We support the role of the Commonwealth Ministerial Action Group to address promptly and effectively all instances of serious or persistent violations of Commonwealth values without any fear or favour.

II.

HUMAN RIGHTS

We are committed to the Universal Declaration of Human Rights and other relevant human rights covenants and international instruments. We are committed to equality and respect for the protection and promotion of civil, political, economic, social and cultural rights, including the right to development, for all without discrimination on any grounds as the foundations of peaceful, just and stable societies. We note that these rights are universal, indivisible, interdependent and interrelated and cannot be implemented selectively.

We are implacably opposed to all forms of discrimination, whether rooted in gender, race, colour, creed, political belief or other grounds.

III.

INTERNATIONAL PEACE AND SECURITY

We firmly believe that international peace and security, sustainable economic growth and development and the rule of law are essential to the progress and prosperity of all. We are committed to an effective multilateral system based on inclusiveness, equity, justice and international law as the best foundation for achieving consensus and progress on major global challenges including piracy and terrorism.

We support international efforts for peace and disarmament at the United Nations and other multilateral institutions. We will contribute to the promotion of international consensus on major global political, economic

and social issues. We will be guided by our commitment to the security, development and prosperity of every member state.

We reiterate our absolute condemnation of all acts of terrorism in whatever form or wherever they occur or by whomsoever perpetrated, with the consequent tragic loss of human life and severe damage to political, economic and social stability. We reaffirm our commitment to work together as a diverse community of nations, individually, and collectively under the auspices and authority of the United Nations, to take concerted and resolute action to eradicate terrorism.

IV.

TOLERANCE, RESPECT AND UNDERSTANDING

We emphasise the need to promote tolerance, respect, understanding, moderation and religious freedom which are essential to the development of free and democratic societies, and recall that respect for the dignity of all human beings is critical to promoting peace and prosperity.

We accept that diversity and understanding the richness of our multiple identities are fundamental to the Commonwealth's principles and approach.

V.

FREEDOM OF EXPRESSION

We are committed to peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and strengthening democratic processes.

VI.

SEPARATION OF POWERS

We recognise the importance of maintaining the integrity of the roles of the Legislature, Executive and Judiciary. These are the guarantors in their respective spheres of the rule of law, the promotion and protection of fundamental human rights and adherence to good governance.

VII.

RULE OF LAW

We believe in the rule of law as an essential protection for the people of the Commonwealth and as an assurance of limited and accountable government. In particular we support an independent, impartial, honest and competent judiciary and recognise that an independent, effective and competent legal system is integral to upholding the rule of law, engendering public confidence and dispensing justice.

VIII.

GOOD GOVERNANCE

We reiterate our commitment to promote good governance through the rule of law, to ensure transparency and accountability and to root out, both at national and international levels, systemic and systematic corruption.

IX.

SUSTAINABLE DEVELOPMENT

We recognise that sustainable development can help to eradicate poverty by pursuing inclusive growth whilst preserving and conserving natural ecosystems and promoting social equity.

We stress the importance of sustainable economic and social transformation to eliminate poverty and meet the basic needs of the vast majority of the people of the world and reiterate that economic and social progress enhances the sustainability of democracy.

We are committed to removing wide disparities and unequal living standards as guided by internationally agreed development goals. We are also committed to building economic resilience and promoting social equity, and we reiterate the value in technical assistance, capacity building and practical cooperation in promoting development.

We are committed to an effective, equitable, rules-based multilateral trading system, the freest possible flow of multilateral trade on terms fair and equitable to all, while taking into account the special requirements of small states and developing countries.

We also recognise the importance of information and communication technologies as powerful instruments of development; delivering savings, efficiencies and growth in our economies, as well as promoting education, learning and the sharing of culture. We are committed to strengthening its use while enhancing its security, for the purpose of advancing our societies.

X.

PROTECTING THE ENVIRONMENT

We recognise the importance of the protection and conservation of our natural ecosystems and affirm that sustainable management of the natural environment is the key to sustained human development. We recognise the importance of multilateral cooperation, sustained commitment and collective action, in particular by addressing the adaptation and mitigation challenges of climate change and facilitating the development, diffusion and deployment of affordable environmentally friendly technologies and renewable energy, and the prevention of illicit dumping of toxic and hazardous waste as well as the prevention and mitigation of erosion and desertification.

XI.

ACCESS TO HEALTH, EDUCATION, FOOD AND SHELTER

We recognise the necessity of access to affordable health care, education, clean drinking water, sanitation and housing for all citizens and emphasise the importance of promoting health and well-being in combating communicable and non-communicable diseases.

We recognise the right of everyone to have access to safe, sufficient and nutritious food, consistent with the progressive realisation of the right to adequate food in the context of national food security.

XII.

GENDER EQUALITY

We recognise that gender equality and women's empowerment are essential components of human development and basic human rights. The advancement of women's rights and the education of girls are critical preconditions for effective and sustainable development.

XIII.

IMPORTANCE OF YOUNG PEOPLE IN THE COMMONWEALTH

We recognise the positive and active role and contributions of young people in promoting development, peace, democracy and in protecting and promoting other Commonwealth values, such as tolerance and understanding, including respect for other cultures. The future success of the Commonwealth rests with the continued commitment and contributions of young people in promoting and sustaining the Commonwealth and its values and principles, and we commit to investing in and promoting their development, particularly through the creation of opportunities for youth employment and entrepreneurship.

XIV.

RECOGNITION OF THE NEEDS OF SMALL STATES

We are committed to assisting small and developing states in the Commonwealth, including the particular needs of small island developing states, in tackling their particular economic, energy, climate change and security challenges, and in building their resilience for the future.

XV.

RECOGNITION OF THE NEEDS OF VULNERABLE STATES

We are committed to collaborating to find ways to provide immediate help to the poorest and most vulnerable including least developed countries, and to develop responses to protect the people most at risk.

XVI.

THE ROLE OF CIVIL SOCIETY

We recognise the important role that civil society plays in our communities and countries as partners in promoting and supporting Commonwealth values and principles, including the freedom of association and peaceful assembly, and in achieving development goals.

We are committed to ensuring that the Commonwealth is an effective association, responsive to members' needs, and capable of addressing the significant global challenges of the future.

We aspire to a Commonwealth that is a strong and respected voice in the world, speaking out on major issues; that strengthens and enlarges its networks; that has a global relevance and profile; and that is devoted to improving the lives of all peoples of the Commonwealth.

Two handwritten signatures in black ink. The signature on the left is 'Kamalesh Sharma' and the one on the right is 'J. S. Jayaraman'.

Signed by His Excellency Kamalesh Sharma, Commonwealth Secretary-General,
14 December 2012, on which day Commonwealth Heads of Government
adopted the Charter of the Commonwealth







Charter of the United Nations Act 1945

No. 32, 1945

Compilation No. 14

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This compilation includes commenced amendments made by Act No. 59, 2015

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Charter of the United Nations Act 1945* that shows the text of the law as amended and in force on 1 July 2016 (the **compilation date**).

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 the Legislation Register (www.legislation.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 the Legislation Register 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.

Editorial changes

For more information about any editorial changes made in this compilation, see 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 the Legislation Register 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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An Act to approve the Charter of the United Nations, and to enable Australia to apply sanctions giving effect to certain decisions of the Security Council

Part 1—Preliminary

1 Short title

This Act may be cited as the *Charter of the United Nations Act 1945*.

2 Definitions

In this Act:

asset means:

- (a) an asset of any kind or property of any kind, whether tangible or intangible, movable or immovable, however acquired; and
- (b) a legal document or instrument in any form, including electronic or digital, evidencing title to, or interest in, such an asset or such property, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, debt instruments, drafts and letters of credit.

CEO, in relation to a Commonwealth entity, means the chief executive officer (however described) of that entity.

Charter of the United Nations means the Charter of the United Nations, done at San Francisco on 26 June 1945 [1945] ATS 1.

Note: The text of the Charter of the United Nations is set out in Australian Treaty Series 1945 No. 1. In 2007, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

Part 1 Preliminary

Section 2A

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

designated Commonwealth entity means a Commonwealth entity that is specified in an instrument under section 2A.

foreign government entity means:

- (a) the government of a foreign country or of part of a foreign country; or
- (b) an authority of the government of a foreign country; or
- (c) an authority of the government of part of a foreign country.

officer of a Commonwealth entity includes:

- (a) the CEO of the Commonwealth entity; and
- (b) an employee of the Commonwealth entity; and
- (c) any other person engaged by the Commonwealth entity, under contract or otherwise, to exercise powers, or perform duties or functions, of the Commonwealth entity.

public international organisation has the meaning given by section 70.1 of the *Criminal Code*.

State or Territory entity means:

- (a) a State or Territory; or
- (b) an authority of a State or Territory.

UN sanction enforcement law means a provision that is specified in an instrument under subsection 2B(1).

2A Meaning of *designated Commonwealth entity*

The Minister may, by legislative instrument, specify a Commonwealth entity as a ***designated Commonwealth entity***.

2B Meaning of *UN sanction enforcement law*

- (1) The Minister may, by legislative instrument, specify a provision of a law of the Commonwealth as a ***UN sanction enforcement law***.

- (2) The Minister may specify a provision in relation to particular circumstances.
- (3) The Minister may only specify a provision to the extent that it gives effect to a decision that:
- (a) the Security Council has made under Chapter VII of the Charter of the United Nations; and
 - (b) Article 25 of the Charter requires Australia to carry out; in so far as that decision requires Australia to apply measures not involving the use of armed force.
- Note: Articles 39 and 41 of the Charter provide for the Security Council to decide what measures not involving the use of armed force are to be taken to maintain or restore international peace and security.
- (4) A provision may be specified whether or not the provision is made for the sole purpose of giving effect to a decision of the Security Council.
- (5) A provision ceases to be a *UN sanction enforcement law* to a particular extent if:
- (a) Article 25 of the Charter of the United Nations ceases to require Australia to carry out a decision referred to in subsection (3); and
 - (b) the provision gave effect to that decision to that extent; and
 - (c) the provision does not give effect to any other decision referred to in subsection (3) to that extent.

3 Extension to external Territories

This Act extends to every external Territory.

4 Act binds the Crown

- (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.

Part 1 Preliminary

Section 4

- (2) Nothing in this Act renders the Crown in any right liable to be prosecuted for an offence.

Part 2—Approval of Charter

5 Approval

The Charter of the United Nations (a copy of which is set out in the Schedule) is approved.

Part 3 Regulations to Apply Security Council Sanctions

Division 1 Making and effect of regulations

Section 6

Part 3—Regulations to Apply Security Council Sanctions

Division 1—Making and effect of regulations

6 Regulations may apply sanctions

- (1) The Governor-General may make regulations for and in relation to giving effect to decisions that:
- (a) the Security Council makes under Chapter VII of the Charter of the United Nations; and
 - (b) Article 25 of the Charter requires Australia to carry out; in so far as those decisions require Australia to apply measures not involving the use of armed force.

Note: Articles 39 and 41 of the Charter provide for the Security Council to decide what measures not involving the use of armed force are to be taken to maintain or restore international peace and security.

- (2) Without limiting subsection (1), the regulations may give effect to a decision of the Security Council by any or all of the following means:
- (a) proscribing persons or entities;
 - (b) restricting or preventing uses of, dealings with, and making available, assets;
 - (c) restricting or preventing the supply, sale or transfer of goods or services;
 - (d) restricting or preventing the procurement of goods or services;
 - (e) providing for indemnities for acting in compliance or purported compliance with those regulations;
 - (f) providing for compensation for owners of assets;
 - (g) authorising the making of legislative instruments.
- (3) Despite subsection 14(2) of the *Legislation Act 2003*, regulations made for the purposes of subsection (1) may make provision in

relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

7 Regulations may have extra-territorial effect

- (1) The regulations may be expressed to have extra-territorial effect.
- (2) If they are so expressed, they have effect accordingly, and so does Division 2 of this Part.

8 Regulations expire when sanctions resolution ceases to bind Australia

- (1) In so far as the regulations provide for or in relation to giving effect to a particular decision of the Security Council:
 - (a) they cease to have effect when Article 25 of the Charter of the United Nations ceases to require Australia to carry out that decision; and
 - (b) they do not revive, even if Australia again becomes required to carry out the decision.
- (2) However, to avoid doubt, nothing in this section prevents the repeal of regulations, or the making of regulations that are the same in substance as regulations that have ceased to have effect because of this section.

9 Effect of regulations on earlier Commonwealth Acts and on State and Territory laws

The regulations have effect despite:

- (a) an Act enacted before the commencement of this section; or
- (b) an instrument made under such an Act (including such an instrument made at or after that commencement); or
- (c) a law of a State or Territory; or
- (d) an instrument made under such a law; or

Part 3 Regulations to Apply Security Council Sanctions

Division 1 Making and effect of regulations

Section 10

- (e) any provision of the *Corporations Act 2001* or the *Australian Securities and Investments Commission Act 2001*, or of regulations made under those Acts; or
- (f) an instrument made under such a provision.

10 Later Acts not to be interpreted as overriding this Part or the regulations

- (1) An Act enacted at or after the commencement of this section is not to be interpreted as:
 - (a) amending or repealing, or otherwise altering the effect or operation of, a provision of this Part or of the regulations; or
 - (b) authorising the making of an instrument amending or repealing, or otherwise altering the effect or operation of, a provision of this Part or of the regulations.
- (2) Subsection (1) does not affect the interpretation of an Act so far as that Act provides expressly for that Act, or for an instrument made under that Act, to have effect despite this Act, despite the regulations, or despite a specified provision of this Act or of the regulations.

11 Other instruments giving effect to Security Council decisions

To avoid doubt, the validity or operation of an instrument made under another Act is not affected merely because the instrument was made in connection with giving effect to a decision of the Security Council.

Division 2—Enforcing the regulations**12 Offences**

- (1) The regulations may prescribe penalties of not more than 50 penalty units for offences against the regulations.
- (2) The limitation on penalties in subsection (1) does not prevent the regulations from requiring someone to make a statutory declaration.

13 Injunctions

- (1) If a person has engaged, is engaging, or proposes to engage, in conduct involving a contravention of the regulations, a superior court may by order grant an injunction restraining the person from engaging in conduct specified in the order.
- (2) An injunction may only be granted on application by the Attorney-General.
- (3) On an application, the court may, if it thinks it appropriate, grant an injunction by consent of all parties to the proceedings, whether or not the court is satisfied that subsection (1) applies.
- (4) A superior court may, if it thinks it desirable, grant an interim injunction pending its determination of an application.
- (5) A court is not to require the Attorney-General or anyone else, as a condition of granting an interim injunction, to give an undertaking as to damages.
- (6) A court may discharge or vary an injunction it has granted.
- (7) The power to grant or vary an injunction restraining a person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in such conduct; and

Part 3 Regulations to Apply Security Council Sanctions

Division 2 Enforcing the regulations

Section 13A

(b) whether or not the person has previously engaged in such conduct.

(8) In this section:

superior court means the Federal Court of Australia or the Supreme Court of a State or Territory.

13A Invalidation of permission, authorisations etc.

A licence, permission, consent, approval or authorisation granted under the regulations (a *relevant authorisation*) is taken never to have been granted if information contained in, or information or a document accompanying, the application for the relevant authorisation:

- (a) is false or misleading in a material particular; or
- (b) omits any matter or thing without which the information or document is misleading in a material particular.

Part 4—Security Council decisions that relate to terrorism and dealings with assets

14 Definitions

In this Part:

freezable asset means an asset that:

- (a) is owned or controlled by a proscribed person or entity; or
- (b) is a listed asset; or
- (c) is derived or generated from assets mentioned in paragraph (a) or (b).

listed asset means an asset listed by the Minister under section 15.

proscribed person or entity means:

- (a) a person or entity listed by the Minister under section 15; or
- (b) a person or entity proscribed by regulation under section 18.

superior court means the Federal Court of Australia or the Supreme Court of a State or Territory.

15 Listing persons, entities and assets

- (1) The Minister must list a person or entity under this section if the Minister is satisfied on reasonable grounds of the prescribed matters.
- (2) The Governor-General may make regulations prescribing the matters of which the Minister must be satisfied before listing a person or entity under subsection (1).
- (3) The Minister may list an asset, or class of asset, under this section if the Minister is satisfied on reasonable grounds of the prescribed matters.

Part 4 Security Council decisions that relate to terrorism and dealings with assets

Section 15A

- (4) The Governor-General may make regulations prescribing the matters of which the Minister must be satisfied before listing an asset under subsection (3).
- (5) A matter must not be prescribed under subsection (2) or (4) unless the prescription of the matter would give effect to a decision that:
 - (a) the Security Council has made under Chapter VII of the Charter of the United Nations; and
 - (b) Article 25 of the Charter requires Australia to carry out; and
 - (c) relates to terrorism and dealings with assets.
- (6) A person or entity is listed by notice in the *Gazette*.
- (7) An asset or class of asset is listed by notice in the *Gazette*.

15A Duration of listing

- (1) A listing under section 15 ceases to have effect on:
 - (a) if no declaration under subsection (2) has been made in relation to the listing—the third anniversary of the day on which the listing took effect; or
 - (b) otherwise—the third anniversary of the making of the most recent declaration under subsection (2) in relation to the listing.
- (2) The Minister may declare, in writing, that a specified listing under section 15 continues to have effect.
- (3) The Minister must not:
 - (a) make a declaration under subsection (2) specifying the listing of a person or entity unless the Minister is satisfied on reasonable grounds of the matters prescribed for the purposes of subsection 15(2); or
 - (b) make a declaration under subsection (2) specifying the listing of an asset, or class of asset, unless the Minister is satisfied on reasonable grounds of the matters prescribed for the purposes of subsection 15(4).

- (4) The regulations may prescribe a form for a declaration under subsection (2).
- (5) A declaration made under subsection (2) is not a legislative instrument.
- (6) To avoid doubt, subsection (1) does not prevent:
 - (a) the revocation, under section 16, of a listing; or
 - (b) the revocation of a listing by operation of section 19; or
 - (c) the making of a new listing that is the same in substance as another listing (whether the new listing is made or takes effect before or after the other listing ceases to have effect because of subsection (1)).

16 Minister may revoke the listing

- (1) The Minister may revoke a listing under section 15 if the Minister is satisfied that the listing is no longer necessary to give effect to a decision that:
 - (a) the Security Council has made under Chapter VII of the Charter of the United Nations; and
 - (b) Article 25 of the Charter requires Australia to carry out; and
 - (c) relates to terrorism and dealings with assets.
- (2) The Minister may revoke the listing either at the Minister's own instigation or on application by the listed person or entity.
- (3) The listing is revoked by notice in the *Gazette*.
- (4) The listing is revoked at the start of the day immediately after the day on which notice is published in the *Gazette*.

17 Listed person or entity may apply to have the listing revoked

- (1) A listed person or entity may apply to the Minister to have the listing revoked.
- (2) The application must:
 - (a) be in writing; and

Part 4 Security Council decisions that relate to terrorism and dealings with assets

Section 18

- (b) set out the circumstances relied upon to justify the application.
- (3) The Minister is not required to consider an application (the ***current application***) by a listed person or entity under this section if the listed person or entity has made an application under this section within one year before the current application.

18 Proscription by regulation

- (1) The Governor-General may make regulations proscribing persons or entities under this section.
- (2) A person or entity must not be proscribed under subsection (1) unless the proscription would give effect to a decision:
 - (a) that the Security Council has made under Chapter VII of the Charter of the United Nations; and
 - (b) that Article 25 of the Charter requires Australia to carry out; and
 - (c) that relates to terrorism and dealings with assets; and
 - (d) under which the person or entity is identified (whether in the decision or using a mechanism established under the decision) as a person or entity to which the decision relates.
- (3) The regulations may proscribe persons or entities under this section by incorporating a list of persons or entities identified, either in the decision itself or using a mechanism established under the decision, as persons or entities to which the decision relates. The list may be incorporated by the regulations as it exists from time to time.

19 Effect of resolution ceasing to bind Australia

- (1) In so far as a listing under section 15 gives effect to a particular decision of the Security Council, the listing is revoked when Article 25 of the Charter of the United Nations ceases to require Australia to carry out that decision.

- (2) In so far as regulations proscribing a person or entity under section 18 give effect to a particular decision of the Security Council:
- (a) the regulations cease to have effect when Article 25 of the Charter of the United Nations ceases to require Australia to carry out that decision; and
 - (b) they do not revive, even if Australia again becomes required to carry out the decision.
- (3) However, to avoid doubt, nothing in this section prevents:
- (aa) a listing ceasing to have effect under section 15A; or
 - (a) the revocation, under section 16, of a listing; or
 - (b) the repeal of regulations; or
 - (c) the making of regulations that are the same in substance as regulations that have ceased to have effect because of this section.

20 Offence—dealing with freezable assets

Offence for individuals

- (1) An individual commits an offence if:
- (a) the individual holds an asset; and
 - (b) the individual:
 - (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 asset is a freezable asset; and
 - (d) the use or dealing is not in accordance with a notice under section 22.
- (2) Strict liability applies to the circumstance that the use or dealing with the asset is not in accordance with a notice under section 22.

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

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Section 20

- (3) It is a defence if the individual proves that the use or dealing was solely for the purpose of preserving the value of the asset.

Note: The individual bears a legal burden in relation to a matter in subsection (3) (see section 13.4 of the *Criminal Code*).

Penalty for individuals

- (3A) An offence under subsection (1) is punishable on conviction by imprisonment for not more than 10 years or a fine not exceeding the amount worked out under subsection (3B), or both.
- (3B) For the purposes of subsection (3A), the amount is:
- (a) if the contravention involves a transaction or transactions the value of which the court can determine—whichever is the greater of the following:
 - (i) 3 times the value of the transaction or transactions;
 - (ii) 2,500 penalty units; or
 - (b) otherwise—2,500 penalty units.

Offence for bodies corporate

- (3C) A body corporate commits an offence if:
- (a) the body corporate holds an asset; and
 - (b) the body corporate:
 - (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 asset is a freezable asset; and
 - (d) the use or dealing is not in accordance with a notice under section 22.
- (3D) An offence under subsection (3C) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3E) It is a defence if the body corporate proves that:

- (a) the use or dealing was solely for the purpose of preserving the value of the asset; or
- (b) the body corporate took reasonable precautions, and exercised due diligence, to avoid contravening subsection (3C).

Note: The body corporate bears a legal burden in relation to a matter in subsection (3E) (see section 13.4 of the *Criminal Code*).

Penalty for bodies corporate

- (3F) An offence under subsection (3C) is punishable on conviction by a fine not exceeding:
 - (a) if the contravention involves a transaction or transactions the value of which the court can determine—whichever is the greater of the following:
 - (i) 3 times the value of the transaction or transactions;
 - (ii) 10,000 penalty units; or
 - (b) otherwise—10,000 penalty units.
- (4) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence against subsection (1) or (3C).

21 Offence—giving an asset to a proscribed person or entity

Offence for individuals

- (1) An individual commits an offence if:
 - (a) the individual, directly or indirectly, makes an asset available to a person or entity; and
 - (b) the person or entity to whom the asset is made available is a proscribed person or entity; and
 - (c) the making available of the asset is not in accordance with a notice under section 22.
- (2) Strict liability applies to the circumstance that the making available of the asset is not in accordance with a notice under section 22.

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

Penalty for individuals

- (2A) An offence under subsection (1) is punishable on conviction by imprisonment for not more than 10 years or a fine not exceeding the amount worked out under subsection (2B), or both.
- (2B) For the purposes of subsection (2A), the amount is:
- (a) if the contravention involves a transaction or transactions the value of which the court can determine—whichever is the greater of the following:
 - (i) 3 times the value of the transaction or transactions;
 - (ii) 2,500 penalty units; or
 - (b) otherwise—2,500 penalty units.

Offence for bodies corporate

- (2C) A body corporate commits an offence if:
- (a) the body corporate, directly or indirectly, makes an asset available to a person or entity; and
 - (b) the person or entity to whom the asset is made available is a proscribed person or entity; and
 - (c) the making available of the asset is not in accordance with a notice under section 22.
- (2D) An offence under subsection (2C) is an offence of strict liability.

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

- (2E) It is a defence if the body corporate proves that it took reasonable precautions, and exercised due diligence, to avoid contravening subsection (2C).

Note: The body corporate bears a legal burden in relation to a matter in subsection (2E) (see section 13.4 of the *Criminal Code*).

Penalty for bodies corporate

- (2F) An offence under subsection (2C) is punishable on conviction by a fine not exceeding:
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- (a) if the contravention involves a transaction or transactions the value of which the court can determine—whichever is the greater of the following:
 - (i) 3 times the value of the transaction or transactions;
 - (ii) 10,000 penalty units; or
 - (b) otherwise—10,000 penalty units.
- (3) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence against subsection (1) or (2C).

22 Authorised dealings

- (1) The owner or holder of a freezable asset may apply in writing to the Minister for permission to use or deal with the asset in a specified way.
- (2) The owner or holder of an asset may apply in writing to the Minister for permission to make the asset available to a proscribed person or entity specified in the application.
- (3) The Minister may, by written notice:
 - (a) permit a freezable asset specified in the notice to be used or dealt with in a specified way; or
 - (b) permit an asset specified in the notice to be made available to a proscribed person or entity specified in the notice.
- (3A) The Minister may issue such a notice on his or her own initiative or upon application under subsection (1) or (2).
- (4) The notice may be subject to conditions.
- (5) The notice must be given to the owner or holder of the asset as soon as practicable after it is made.
- (6) The Minister may delegate the Minister's powers and functions under this section to:
 - (a) the Secretary of the Department; or

Part 4 Security Council decisions that relate to terrorism and dealings with assets

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- (b) an SES employee, or acting SES employee, in the Department.
The delegation must be in writing.
- (7) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.

22A Regulations on procedures relating to freezable assets

- (1) The Governor-General may make regulations relating to procedures relating to assets that are, may be or may become freezable assets.
- (2) The regulations may provide for procedures relating to information (including personal information) relating to such assets in circumstances involving:
 - (a) a listing, or proposed listing, of a person, entity, asset or class of asset under section 15; or
 - (b) a question whether an asset is or may become a freezable asset; or
 - (c) an application for, or grant of, permission under section 22.
- (3) Subsection (2) does not limit subsection (1).

22B Invalidation of notice for false or misleading information

A notice under section 22 is taken never to have been made if information contained in, or information or a document accompanying, the application for the notice:

- (a) is false or misleading in a material particular; or
- (b) omits any matter or thing without which the information or document is misleading in a material particular.

23 Part prevails over conflicting legal obligations

This Part prevails over provisions in laws of the Commonwealth, or of a State or Territory, that would otherwise require a person to act in contravention of this Part.

24 Indemnity for holder of assets

A person is not liable to an action, suit or proceeding for anything done or omitted to be done in good faith and without negligence in compliance or purported compliance with this Part.

25 Compensation for persons wrongly affected

If:

- (a) the owner or controller of an asset instructs a person holding the asset to use or deal with it; and
 - (b) the holder refuses to comply with the instruction; and
 - (c) the refusal was in good faith, and without negligence, in purported compliance with this Part; and
 - (d) the asset was not a freezable asset; and
 - (e) the owner of the asset suffered loss as a result of the refusal;
- the owner of the asset is entitled to be compensated by the Commonwealth for that loss.

26 Injunctions

- (1) If a person has engaged, is engaging, or proposes to engage, in conduct involving a contravention of this Part, a superior court may by order grant an injunction restraining the person from engaging in conduct specified in the order.
- (2) An injunction may only be granted on application by the Attorney-General.
- (3) On an application, the court may, if it thinks it appropriate, grant an injunction by consent of all parties to the proceedings, whether or not the court is satisfied that subsection (1) applies.
- (4) A superior court may, if it thinks it desirable, grant an interim injunction pending its determination of an application.
- (5) A court is not to require the Attorney-General or anyone else, as a condition of granting an interim injunction, to give an undertaking as to damages.

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- (6) A court may discharge or vary an injunction it has granted.
- (7) The power to grant or vary an injunction restraining a person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in such conduct; and
 - (b) whether or not the person has previously engaged in such conduct.

Part 5—Offences relating to UN sanctions**27 Offence—Contravening a UN sanction enforcement law***Individuals*

- (1) An individual commits an offence if:
 - (a) the individual engages in conduct; and
 - (b) the conduct contravenes a UN sanction enforcement law.
- (2) An individual commits an offence if:
 - (a) the individual engages in conduct; and
 - (b) the conduct contravenes a condition of a licence, permission, consent, authorisation or approval (however described) under a UN sanction enforcement law.
- (3) An offence under subsection (1) or (2) is punishable on conviction by imprisonment for not more than 10 years or a fine not exceeding the amount worked out under subsection (4), or both.
- (4) For the purposes of subsection (3), the amount is:
 - (a) if the contravention involves a transaction or transactions the value of which the court can determine—whichever is the greater of the following:
 - (i) 3 times the value of the transaction or transactions;
 - (ii) 2,500 penalty units; or
 - (b) otherwise—2,500 penalty units.

Bodies corporate

- (5) A body corporate commits an offence if:
 - (a) the body corporate engages in conduct; and
 - (b) the conduct contravenes a UN sanction enforcement law.
 - (6) A body corporate commits an offence if:
 - (a) the body corporate engages in conduct; and
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Part 5 Offences relating to UN sanctions

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(b) the conduct contravenes a condition of a licence, permission, consent, authorisation or approval (however described) under a UN sanction enforcement law.

(7) Subsection (5) or (6) does not apply if the body corporate proves that it took reasonable precautions, and exercised due diligence, to avoid contravening that subsection.

Note: The body corporate bears a legal burden in relation to a matter in subsection (7) (see section 13.4 of the *Criminal Code*).

(8) An offence under subsection (5) or (6) is an offence of strict liability.

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

(9) An offence under subsection (5) or (6) is punishable on conviction by a fine not exceeding:

(a) if the contravention involves a transaction or transactions the value of which the court can determine—whichever is the greater of the following:

- (i) 3 times the value of the transaction or transactions;
- (ii) 10,000 penalty units; or

(b) otherwise—10,000 penalty units.

Definitions

(10) In this section:

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

28 Offence—False or misleading information given in connection with a UN sanction enforcement law

(1) A person commits an offence if:

- (a) the person gives information or a document to a Commonwealth entity; and

- (b) the information or document is given in connection with the administration of a UN sanction enforcement law; and
- (c) the information or document:
 - (i) is false or misleading; or
 - (ii) omits any matter or thing without which the information or document is misleading.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

- (2) A person (the *first person*) commits an offence if:
- (a) the first person gives information or a document to another person; and
 - (b) the first person is reckless as to whether the other person or someone else will give the information or document to a Commonwealth entity in connection with the administration of a UN sanction enforcement law; and
 - (c) the information or document:
 - (i) is false or misleading; or
 - (ii) omits any matter or thing without which the information or document is misleading.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

- (3) Subsection (1) or (2) does not apply:
- (a) as a result of subparagraph (1)(c)(i) or (2)(c)(i)—if the information or document is not false or misleading in a material particular; or
 - (b) as a result of subparagraph (1)(c)(ii) or (2)(c)(ii)—if the information or document did not omit any matter or thing without which the information or document is misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

Part 5 Offences relating to UN sanctions

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Geographical application of offences

- (4) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence against subsection (1) or (2).

Part 6—Information relating to UN sanctions

29 CEO of Commonwealth entity may give information or document

- (1) The CEO of a Commonwealth entity may give any information or document to the CEO of a designated Commonwealth entity for a purpose in connection with the administration of a UN sanction enforcement law.
- (2) Subsection (1) applies despite any other law of the Commonwealth, a State or a Territory.

30 Power to require information or documents to be given

- (1) The CEO of a designated Commonwealth entity may, for the purpose of determining whether a UN sanction enforcement law has been or is being complied with, give a person a written notice requiring the person to do either or both of the following:
 - (a) to give the CEO information of the kind, by the time and in any manner or form, specified in the notice;
 - (b) to give the CEO documents of the kind, by the time and in any manner, specified in the notice.
- (2) The person must comply with the notice despite any other law of the Commonwealth, a State or a Territory.
- (3) The time specified in the notice must be reasonable, having regard to all the circumstances.
- (4) The person may, before the time specified in the notice, request the CEO to extend the time by which the information or documents must be given.
- (5) The CEO may, by written notice given to the person, vary the notice under subsection (1) to specify a later time by which the information or documents must be given.

Part 6 Information relating to UN sanctions

Section 31

- (6) Subsection (5) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* in relation to a notice under subsection (1).

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* deals with revocation and variation etc. of instruments.

- (7) Subsection (1) does not apply if:
- (a) the person is the Commonwealth or a Commonwealth entity;
or
 - (b) the person:
 - (i) is, or has at any time been, an officer of a Commonwealth entity; and
 - (ii) obtained or generated the information or document in the course of carrying out his or her duties as an officer of the Commonwealth entity.

31 Information may be required to be given on oath

- (1) The CEO may require the information to be verified by, or given on, oath or affirmation.
- (2) The oath or affirmation is an oath or affirmation that the information is true.

32 Offence for failure to comply with requirement

- (1) A person commits an offence if:
 - (a) the person has been given a notice under section 30; and
 - (b) the person does not comply with the notice.

Penalty: Imprisonment for 12 months.

- (2) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence against subsection (1).

33 Self-incrimination not an excuse

- (1) An individual is not excused from giving information or a document under section 30 on the ground that the information, or the giving of the document, might tend to incriminate the individual or otherwise expose the individual to a penalty or other liability.
- (2) However, neither the information given nor the giving of the document is admissible in evidence against the individual in any criminal proceedings, or in any proceedings that would expose the individual to a penalty, other than proceedings for an offence against:
 - (a) section 28 (false or misleading information given in connection with a UN sanction enforcement law); or
 - (b) section 32 (failure to comply with requirement to give information or document).

34 CEO may copy documents

If a person gives a document to the CEO of a designated Commonwealth entity under section 30, the CEO:

- (a) may take and keep a copy of the document; and
- (b) must return the document to the person within a reasonable time.

35 Further disclosure and use of information and documents

Disclosure and use of information etc. within entity

- (1) An officer of a designated Commonwealth entity may do any of the following for a purpose in connection with the administration of a UN sanction enforcement law or with a decision of the Security Council referred to in section 6:
 - (a) copy, make a record of or use, any information or document;
 - (b) disclose any information, or give any document, to another officer of that entity.

Part 6 Information relating to UN sanctions**Section 36**

Disclosure outside of entity

- (2) A CEO of a designated Commonwealth entity may disclose any information or give any document to any of the following for a purpose in connection with the administration of a UN sanction enforcement law or with a decision of the Security Council referred to in section 6:
 - (a) a Minister of the Commonwealth, a State or a Territory;
 - (b) the CEO of another Commonwealth entity;
 - (c) a State or Territory entity;
 - (d) a foreign government entity;
 - (e) a public international organisation;
 - (f) a person specified in an instrument under subsection (3).
- (3) The Minister may, by legislative instrument, specify a person for the purposes of paragraph (2)(f).
- (4) Subsections (1) and (2) apply despite any other law of the Commonwealth, a State or a Territory.

36 Protection from liability

- (1) A person who, in good faith, gives, discloses, copies, makes a record of or uses information or a document under section 29, 30, 34 or 35 is not liable:
 - (a) to any proceedings for contravening any other law because of that conduct; or
 - (b) to civil proceedings for loss, damage or injury of any kind suffered by another person because of that conduct.
- (2) Subsection (1) does not prevent the person from being liable to a proceeding for conduct of the person that is revealed by the information or document.

37 Retention of records and documents

- (1) A person who applies for a licence, permission, consent, authorisation or approval under a UN sanction enforcement law (a
-

relevant authorisation) must retain any records or documents relating to that application for the period of 5 years beginning on:

- (a) if the relevant authorisation was granted—the last day on which an action to which the relevant authorisation relates was done; or
 - (b) if the relevant authorisation was not granted—the day on which the application was made.
- (2) A person who is granted a licence, permission, consent, authorisation or approval under a UN sanction enforcement law (a **relevant authorisation**) must retain any records or documents relating to the person's compliance with any conditions to which the relevant authorisation is subject for the period of 5 years beginning on the last day on which an action to which the relevant authorisation relates was done.

Note: A person may commit an offence if the person fails to give under section 30 a record or document that is required to be retained under this section: see section 32.

38 Delegation

- (1) The CEO of a Commonwealth entity may, by written instrument, delegate all or any of his or her powers or functions under this Part to:
 - (a) an SES employee or acting SES employee of the entity; or
 - (b) an employee of the entity of equivalent rank to an SES employee.
- (2) In exercising powers or performing functions delegated under subsection (1), the delegate must comply with any directions of the CEO.

Part 7 Miscellaneous

Section 39

Part 7—Miscellaneous

39 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.