

Reprint  
as at 14 June 2018



## United Nations Sanctions (Somalia) Amendment Regulations 2009 (SR 2009/74)

United Nations Sanctions (Somalia) Amendment Regulations 2009: revoked, on 14 June 2018, by regulation 23(c) of the United Nations Sanctions (Somalia) Regulations 2018 (LI 2018/68).

Anand Satyanand, Governor-General

### Order in Council

At Wellington this 6th day of April 2009

Present:

His Excellency the Governor-General in Council

Pursuant to section 2 of the United Nations Act 1946, His Excellency the Governor-General, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) for the purpose of giving effect (in part) to resolutions 1844 (2008), 1846 (2008), and 1851 (2008) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 20 November 2008, 2 December 2008, and 16 December 2008 respectively, calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of Somalia the measures set out in those resolutions,—

makes the following regulations.

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These regulations are administered by the Ministry of Foreign Affairs and Trade.**

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## Regulations

- 1 Title**  
These regulations are the United Nations Sanctions (Somalia) Amendment Regulations 2009.

## 2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

## 3 Principal regulations amended

These regulations amend the United Nations Sanctions (Somalia) Regulations 1992.

## 4 Interpretation

- (1) Regulation 2 is amended by inserting the following definitions in their appropriate alphabetical order:

**asset** includes any financial asset or economic resource

**designated person** means a person or entity designated by the Committee in accordance with paragraph 8 of resolution 1844 (2008) of the Security Council of the United Nations

**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the United Nations Act 1946

**money** includes—

- (a) the banknotes and other currency and money orders of New Zealand or any other country; and
- (b) promissory notes and bills of exchange; and
- (c) any credit in an account with any person

**security**—

- (a) includes a share, stock, bond, debenture, debenture stock, mortgage, lien, treasury bill, coupon, or warrant representing dividends or interest, and a life or endowment insurance policy, in whatever currency the security is expressed; and
- (b) also includes any document or means by which the right to the ownership or provision of any money or security, or any interest in money or a security, may be exercised; but
- (c) does not include a promissory note or bill of exchange

- (2) Regulation 2 is amended by adding the following subclauses as subclauses (2) and (3):

(2) A reference in these regulations to the transfer of a security includes a reference to a transfer of a security by way of loan, mortgage, pledge, or bailment, whether in respect of a legal or an equitable interest.

(3) The Minister may publish, in any manner the Minister thinks fit (for example, by notice in the *Gazette*, or publication on the Internet, or both),—

- (a) a list of the names of any persons designated as designated persons; and

(b) any additions to, or deletions from, the list referred to in paragraph (a).

## **5 Exportation of weapons and military equipment to Somalia prohibited**

- (1) Regulation 3(2)(a) is amended by omitting “weapons, military equipment, technical training, or assistance” and substituting “weapons or military equipment”.
- (2) Regulation 3(2) is amended by revoking paragraph (c) and substituting the following paragraph:
  - (c) weapons or military equipment if—
    - (i) those weapons or that military equipment is intended solely for the purpose of helping develop security sector institutions, consistent with the political process set out in paragraphs 1 to 3 of resolution 1744 (2007) of the Security Council of the United Nations; and
    - (ii) the provision of those weapons or that military equipment is not disallowed by the Committee; or
- (3) Regulation 3(2) is amended by adding “; or” and also by adding the following paragraph:
  - (e) weapons or military equipment destined for the sole use of member States and regional organisations undertaking measures in accordance with paragraph 6 of resolution 1851 of the Security Council of the United Nations (relating to the suppression of acts of piracy and armed robbery at sea off the coast of Somalia).

## **6 Prohibited transactions in relation to imports of weapons or military equipment into Somalia**

Regulation 8 is amended by adding the following subclause as subclause (2):

- (2) Subclause (1) does not apply to a transaction in relation to weapons or military equipment specified in regulation 3(2).

## **7 Prohibition on carriage of weapons or military equipment to Somalia**

Regulation 9 is amended by adding the following subclause:

- (4) Subclause (2) does not apply to the carriage of weapons or military equipment specified in regulation 3(2).

## **8 New headings and regulations 10A to 10F inserted**

The following headings and regulations are inserted after regulation 10:

*Prohibitions on provision of weapons or equipment, or assistance or training of specified type*

**10A Provision to Somalia of assistance, advice, or training relating to military activities prohibited**

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may provide to, or at the request of, any person within Somalia any technical advice, financial or other assistance, or training if that advice, assistance, or training relates to military activities.
- (2) Subsection (1) does not apply if the Minister has consented to that provision of the advice, assistance, or training.
- (3) Subclause (1) does not apply to—
  - (a) technical training or assistance intended solely for the support of or use by AMISOM; or
  - (b) technical training or assistance if—
    - (i) that training or assistance is intended solely for the purpose of helping develop security sector institutions, consistent with the political process set out in paragraphs 1 to 3 of resolution 1744 (2007) of the Security Council of the United Nations; and
    - (ii) the provision of that assistance is not disallowed by the Committee; or
  - (c) technical assistance if—
    - (i) that assistance is intended solely for the purpose of enhancing the capacity of Somalia and nearby coastal States to ensure coastal and maritime security, including combating piracy and armed robbery at sea off the coast of Somalia and nearby coastal States, in accordance with paragraph 5 of resolution 1846 (2008) of the Security Council of the United Nations; and
    - (ii) the provision of that assistance is not disallowed by the Committee.

**10B Provision to designated persons of weapons or equipment, or assistance or training of specified type, prohibited**

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may enter into or be concerned in any sale, transfer, carriage, or delivery, to a designated person, of—
  - (a) weapons or military equipment; or
  - (b) if relating to military activities or to the provision, transfer, manufacture, maintenance, or use of weapons and military equipment,—
    - (i) technical assistance or training; or

- (ii) financial or other assistance, including investment, brokering, or other financial services.
- (2) Subsection (1) does not apply if the Minister has consented to that sale, transfer, carriage, or delivery of the weapons, equipment, assistance, or training.

*Funds of or for designated persons*

**10C Prohibition on dealings in assets, money, or securities of, or derived from property of, designated persons**

- (1) No person may knowingly transfer, pay for, sell, assign, dispose of, or otherwise deal with any asset, money, or security—
  - (a) that is owned or controlled, directly or indirectly, by a designated person or a person or entity acting on behalf, or at the direction, of a designated person; and
  - (b) that is located in New Zealand.
- (2) Subclause (1) does not apply if the Minister has consented to that transfer, sale, assignment, or disposal of, payment for, or other dealing with, the asset, money, or security.
- (3) It is a defence to a prosecution under this regulation in respect of any asset, money, or security derived or generated from any asset, money, or security of the kind specified in subclause (1)(a) (a **restricted item**) if the defendant proves that he or she received the asset, money, or security in good faith, at a time when he or she did not know that it was a restricted item or derived or generated from a restricted item.

**10D Prohibition on sending funds, etc, to designated persons**

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may knowingly send, transfer, or deliver, or knowingly cause to be sent, transferred, or delivered, whether directly or indirectly, any asset, money, or security—
  - (a) to a designated person or a person or entity acting on behalf, or at the direction, of a designated person; or
  - (b) for the benefit of a designated person or a person or entity acting on behalf, or at the direction, of a designated person.
- (2) Subclause (1) does not apply if the Minister has consented to that sending, transfer, or delivery of the asset, money, or security.

**10E Exceptions to regulations 10C and 10D**

- (1) The Minister may consent to any dealing with any asset, money, or security if the Minister is satisfied that the dealing—

- (a) is necessary for basic expenses within the meaning of paragraph 4(a) of resolution 1844 of the Security Council of the United Nations and is authorised under that paragraph; or
  - (b) is necessary for extraordinary expenses within the meaning of paragraph 4(b) of resolution 1844 of the Security Council of the United Nations and is authorised under that paragraph; or
  - (c) is authorised under paragraph 4(c) of resolution 1844 of the Security Council of the United Nations (which relates to assets, money, or securities subject to judicial, administrative, or arbitral liens or judgments).
- (2) The Minister may consent to the following being added to an account:
- (a) interest or other earnings due on the account:
  - (b) payments due under any contract, agreement, or obligation of a designated individual or entity that arose before the date of designation.
- (3) Interest and other earnings and payments added to an account under subclause (2) are subject to regulations 10C(1) and 10D(1).

*Entry and transit of designated persons*

**10F Designated persons to enter New Zealand only if consistent with determinations of Security Council**

- (1) No person who is a designated person may enter New Zealand, or transit through New Zealand, if the entry or transit would be contrary to a determination of the Security Council made under Article 41 of the Charter of the United Nations.
- (2) Subclause (1) does not apply to a designated person who is a New Zealand citizen.
- (3) Subclause (1) does not apply so as to prevent a designated person from entering or transiting through New Zealand if—
  - (a) the Committee has determined that the travel is justified on the ground of humanitarian need, including religious obligations; or
  - (b) the Committee has determined that the travel would otherwise further the objectives of Security Council resolutions relating to Somalia.
- (4) A permit or visa may be granted or issued, under the Immigration Act 1987, to a designated person only on the advice of the Secretary of Foreign Affairs and Trade that the permit or visa is consistent with subclause (1).
- (5) This regulation operates in addition to the requirements of the Immigration Act 1987 and of any regulations made under that Act.

**9 Other amendments to principal regulations**

The principal regulations are amended in the manner indicated in the Schedule.

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## Schedule

### Other amendments to principal regulations

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**Regulation 3(1)**

Omit “of Foreign Affairs and Trade”.

**Regulation 8**

Omit “of Foreign Affairs and Trade”.

**Regulation 9(3)**

Omit “of Foreign Affairs and Trade”.

Michael Webster,  
for Clerk of the Executive Council.

### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, are made under the United Nations Act 1946. The regulations amend the United Nations Sanctions (Somalia) Regulations 1992 to introduce an asset freeze and travel ban for designated persons, and to extend and clarify the existing arms embargo relating to Somalia. These measures are required by resolution 1844 (2008) of the Security Council of the United Nations.

The regulations also introduce additional arms embargo exceptions relating to the suppression of acts of piracy and armed robbery at sea off the coast of Somalia, as required by resolutions 1846 (2008) and 1851 (2008) of the Security Council of the United Nations.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 9 April 2009.

## **Reprints notes**

### **1 *General***

This is a reprint of the United Nations Sanctions (Somalia) Amendment Regulations 2009 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

### **2 *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3 *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4 *Amendments incorporated in this reprint***

United Nations Sanctions (Somalia) Regulations 2018 (LI 2018/68): regulation 23(c)