

Reprint
as at 19 February 2016



United Nations Sanctions (Iran) Amendment Regulations 2010

(SR 2010/426)

United Nations Sanctions (Iran) Amendment Regulations 2010: revoked, on 19 February 2016, pursuant to regulation 35 of the United Nations (Iran—Joint Comprehensive Plan of Action) Regulations 2016 (LI 2016/9).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 22nd day of November 2010

Present:

His Excellency the Governor-General in Council

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

- (a) acting on the advice and with the consent of the Executive Council; and
- (b) for the purpose of giving effect to resolution 1929 (2010) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 9 June 2010, and calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of Iran the measures set out in that resolution.

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

- Title**

These regulations are the United Nations Sanctions (Iran) Amendment Regulations 2010.
- Commencement**

These regulations come into force on 23 December 2010.
- Principal regulations amended**

These regulations amend the United Nations Sanctions (Iran) Regulations 2010.
- Publication of details of persons, goods, equipment, etc**

Regulation 5 is amended by adding the following paragraph:

- (h) any classes, descriptions, or kinds of provision or receipt of goods or services that the Minister has by notice in the *Gazette* under regulation 21(4) declared to be business that could not contribute to specified violations (as that term is defined in regulation 21(3)).

5 Customs and Excise Act 1996 to apply to prohibited imports, prohibited exports, and other goods and arms

- (1) Regulation 8(1) is amended by inserting “or (4)” after “subclause (3)”.
- (2) Regulation 8(2) is amended by inserting “or (4)” after “subclause (3)”.
- (3) Regulation 8(3) is revoked and the following subclauses are substituted:
 - (3) This subclause applies to goods or arms that—
 - (a) are all or any of the following being exported or imported to or from Iran, and are in New Zealand:
 - (i) arms:
 - (ii) ballistic missile-related technology:
 - (iii) specified military equipment:
 - (iv) specified nuclear weapon, missile, or enrichment-related goods; and
 - (b) a Customs officer believes on reasonable grounds on the basis of information available to the officer are being sold, transferred, carried, delivered, or otherwise dealt with, or exported, contrary to regulation 13(1), 14(1), or 15(1), or otherwise contrary to all or any of the following paragraphs of the following resolutions of the Security Council of the United Nations:
 - (i) paragraphs 3, 4, and 7 of resolution 1737 (2006):
 - (ii) paragraph 5 of resolution 1747 (2007):
 - (iii) paragraph 8 of resolution 1803 (2008):
 - (iv) paragraphs 8 and 9 of resolution 1929 (2010).
- (4) This subclause applies to goods or arms that—
 - (a) are being exported or imported to or from Iran, and are in New Zealand; and
 - (b) a Customs officer believes on reasonable grounds on the basis of information available to the officer are being provided or received in contravention of regulation 21B(1) (which imposes a duty to be registered for business with Iran when doing that business).
- (5) Subclauses (1) and (2) are subject to regulation 10A.

6 Detention of prohibited imports, prohibited exports, and other goods or arms

- (1) Regulation 10(c) is amended by inserting “or (4)” after “regulation 8(3)”.

- (2) Regulation 10 is amended by adding the following subclause as subclause (2):
- (2) The Customs officer may, in detaining the goods or arms, use any reasonably necessary force.

7 New regulation 10A inserted

The following regulation is inserted after regulation 10:

10A Procedure after detention of certain goods being exported or imported without registration

- (1) This regulation applies if a Customs officer detains under regulation 10 goods to which regulation 8(4) applies and that are not all or any of the following:
- (a) arms;
 - (b) goods whose importation is prohibited by regulation 6;
 - (c) goods whose exportation is prohibited by regulation 7;
 - (d) goods to which regulation 8(3) applies.
- (2) All or any of the following involved in the provision or receipt of the goods may, after the goods are detained, apply to be registered under regulation 21B in respect of his, her, or its involvement in their provision or receipt:
- (a) a person in New Zealand;
 - (b) a New Zealand citizen in any place outside New Zealand;
 - (c) an entity incorporated or constituted under New Zealand law, or otherwise subject to New Zealand's jurisdiction.
- (3) The goods cannot be seized or forfeited under Part 14 of the Customs and Excise Act 1996 unless—
- (a) a person, citizen, or entity was required to be, but was not, registered under regulation 21B in respect of the provision or receipt of the goods; and either
 - (b) no application to be registered under regulation 21B in respect of their provision or receipt is made within 20 working days after the date on which they were detained; or
 - (c) an application of that kind is made within that 20-working-day period but has been finally determined and not approved.
- (4) Section 226(6) to (8) of the Customs and Excise Act 1996 apply to the goods, before they are so seized and forfeited, as if they were goods specified in section 226(1) of that Act.
- (5) This regulation overrides regulation 8(1) and (2), but does not prevent or restrict a prosecution of a person, citizen, or entity, in accordance with regulations 27 and 28, for an offence of acting in contravention of, or failing to comply in any respect with, the provisions of all or any of regulations 21 to 21D.

8 New regulation 11 substituted

Regulation 11 is revoked and the following regulation substituted:

11 Prohibited exports and other goods not to be loaded onto ships or aircraft

The master of a ship or the pilot in command of an aircraft must not permit to be laden in the ship or aircraft either or both of the following:

- (a) goods the exportation of which is prohibited by regulation 7, and that the master or the pilot knows are intended to be exported in contravention of that regulation:
- (b) goods the exportation of which contravenes regulation 21B(1) (which imposes a duty to be registered for business with Iran when doing that business), and that the master or the pilot knows are intended to be exported in contravention of that regulation.

Compare: SR 2007/74 r 8

9 Power to withhold clearance of ship or aircraft

Regulation 12 is amended by adding “or goods to which regulation 8(4) applies”.

10 Duty arises if business could contribute to Iran’s nuclear activities, etc, or other violations

Regulation 21 is amended by adding the following subclauses:

- (3) In this regulation and regulations 21A to 21D,—
 - doing business** means being in any way involved (even if not for reward) in any provision or receipt of any goods or services (other than exempt household or personal effects or gifts) that does not fall within a class, description, or kind of provision or receipt of goods or services declared under subclause (4) to be business that could not contribute to specified violations
 - exempt household or personal effects or gifts** means goods that—
 - (a) are household or personal effects of, or gifts given or received by, an individual; and
 - (b) are, or are to be, provided or received by or on behalf of that individual
 - specified violations** means activities, development, or violations in subclause (1)(b)(i), (ii), or (iii).
- (4) The Minister may by notice in the *Gazette* from time to time declare specified classes, descriptions, or kinds of provision or receipt of goods or services to be business that could not contribute to specified violations.

11 New heading and regulations 21A to 21D inserted

The following heading and regulations are inserted after regulation 21:

*Duties of persons, citizens, and entities doing business with Iran***21A Application of regulations 21B to 21D**

Regulations 21B to 21D apply to a person in New Zealand, a New Zealand citizen in any place outside New Zealand, and an entity incorporated or constituted under New Zealand law, or otherwise subject to New Zealand's jurisdiction who or that is, or is to be, doing business (as defined in regulation 21(3)) on or after 1 March 2011 with—

- (a) a person in Iran; or
- (b) an entity incorporated or constituted under Iranian law or otherwise subject to Iran's jurisdiction (including, without limitation, an entity specified in regulation 21(2)(a) or (b)); or
- (c) any person or entity acting on behalf, or at the direction, of, or owned or controlled by, an entity specified in paragraph (b).

21B Duty to be registered for business when doing it

- (1) The person, citizen, or entity may do the business concerned only if when doing that business the person, citizen, or entity is registered with the Secretary in respect of that business.
- (2) The Secretary must on an application for the purpose in a form approved by the Secretary register the person, citizen, or entity in respect of business to be done if satisfied that the application—
 - (a) shows clearly and accurately in respect of the business to be done the matters specified in regulation 21C(1)(a), (b), and (c); and
 - (b) includes a declaration by or on behalf of the person, citizen, or entity that the person, citizen, or entity believes on reasonable grounds that the business to be done could not contribute to specified violations (as defined in regulation 21(3)).
- (3) The Secretary may revoke the registration of the person, citizen, or entity if satisfied on reasonable grounds that—
 - (a) the application on which it was based is in any material respect false or misleading; or
 - (b) the person, citizen, or entity has failed or refused to comply with regulation 21C or 21D.

21C Duties in respect of business records

- (1) The person, citizen, or entity must create as soon as practicable, and must keep for at least 7 years, after the business concerned is concluded electronic or written records that show accurately and clearly the following:
 - (a) the identity of every person or entity of the kind specified in regulation 21A(a), (b), or (c) with whom or which that business is done:

- (b) the steps taken by or on behalf of the person, citizen, or entity to ascertain the identity of every person or entity of the kind specified in regulation 21A(a), (b), or (c) with whom or which that business is done:
 - (c) the general nature of (so not necessarily every transaction that forms part of, or the precise volumes and values of) that business.
- (2) The person, citizen, or entity must, on a request for the purpose by or on behalf of the Secretary, make available for inspection and copying at all reasonable times all records that the person, citizen, or entity has created and kept in compliance or purported compliance with subclause (1).

21D Duty to report material changes in business

The person, citizen, or entity must report to the Secretary the change concerned if, since the person, citizen, or entity first became registered or last reported under this regulation (whichever is the later), there is a change in a matter specified in regulation 21C(1)(a) or (c) in respect of the business done or to be done by the person, citizen, or entity.

Rebecca Kitteridge,
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 23 December 2010, amend the United Nations Sanctions (Iran) Regulations 2010 to give further and better effect to paragraph 22 of resolution 1929 (2010) of the Security Council of the United Nations. That paragraph obliges New Zealand to require people in New Zealand, New Zealand citizens outside New Zealand, and entities subject to New Zealand's jurisdiction to exercise vigilance when doing with people in Iran, or who or that are subject to Iranian jurisdiction or control, business that could contribute to violations of specified Security Council Resolutions relating to Iran. In outline, the amendments—

- define doing business to—
 - include provision or receipt of goods or services otherwise than for reward; but
 - exclude provision or receipt of goods or services if the goods provided or received are exempt household or personal effects or gifts, or if the provision or receipt is within a class, description, or kind declared by the Minister of Foreign Affairs to be business that could not contribute to the specified violations (*new regulations 5(h), 21(3), and 21(4)* added by *regulations 4 and 10*):

- require specified persons, citizens, and entities, for specified business (done or to be done on or after 1 March 2011), to—
 - be registered for it when doing the specified business:
 - create and maintain, and make available for inspection and copying, records of aspects of the specified business:
 - report changes in the specified business (*new regulations 21A to 21D inserted by regulation 11*):
- apply prohibited imports and prohibited exports provisions to goods or arms being exported or imported to or from Iran, that are in New Zealand, and that are believed to be items being provided or received in contravention of *new regulation 21B(1) (regulation 5)*. The applied provisions, including Part 14 of the Customs and Excise Act 1996, cover such matters as seizure, review of seizure, and relief from seizure:
- enable the detention, using any reasonably necessary force, of goods or arms being exported or imported to or from Iran, and that are in New Zealand, and are believed to be being provided or received in contravention of the registration requirements in *new regulation 21B(1) (regulation 6)*:
- prevent the seizure and forfeiture of those detained goods, however, by *new regulation 10A*, unless registration was required but is not applied for within 20 working days after the date of detention, or a registration application made in that period has been finally determined and not approved (*regulation 7*):
- prohibit from being loaded onto ships or aircraft goods the exportation of which contravenes *new regulation 21B(1)*, and that the masters of the ships or pilots of the aircraft know are goods intended to be exported in contravention of *new regulation 21B(1) (regulation 8)*:
- enable clearance of ships or aircraft to be withheld if there are on board items of cargo to or from Iran, and in New Zealand, that are believed to be items being provided or received in contravention of *new regulation 21B(1) (regulation 9)*.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 25 November 2010.

Reprints notes

1 *General*

This is a reprint of the United Nations Sanctions (Iran) Amendment Regulations 2010 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 (Iran—Joint Comprehensive Plan of Action) Regulations 2016 (LI 2016/9): regulation 35