

**Reprint
as at 11 April 2019**



United Nations Sanctions (South Sudan) Regulations 2015 (LI 2015/139)

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 2nd day of June 2015

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 2206 (2015) of the United Nations Security Council, adopted under the United Nations Charter on 3 March 2015; and
- (c) for the purpose of giving effect to resolution 2428 (2018) of the United Nations Security Council, adopted under the United Nations Charter on 13 July 2018.

Enacting statement, paragraph (b): replaced, on 11 April 2019, by regulation 4 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Enacting statement, paragraph (c): inserted, on 11 April 2019, by regulation 4 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

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 (South Sudan) Regulations 2015.
- 2 Commencement**
These regulations come into force on 2 July 2015.
- 3 Interpretation**
- (1) In these regulations, unless the context otherwise requires,—
- agent of a designated person** means—
- (a) any person who acts on behalf of, or at the direction of,—

- (i) a designated person; or
 - (ii) another person who, directly or indirectly, acts on behalf of the designated person; or
- (b) any entity owned or controlled by a designated person or by a person described in paragraph (a)

arms includes—

- (a) any type of related materiel (for example, weapons, ammunition, military vehicles and equipment, and paramilitary equipment); and
- (b) spare parts for any arms or related materiel specified in paragraph (a)

certificate of clearance means a certificate of clearance granted under the Customs and Excise Act 2018

charterer, in relation to a craft, includes a person acting as the agent of the charterer of the craft

Committee means the Committee established by paragraph 16 of resolution 2206

craft has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Customs means the New Zealand Customs Service

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

designated person means an individual or entity designated by the Committee or the Security Council of the United Nations as one to whom or to which the measures set out in resolution 2206 apply

Minister means the Minister of Foreign Affairs

New Zealand includes Tokelau

New Zealand chartered craft means a craft that is not a New Zealand registered craft but is chartered to a New Zealand citizen or an entity incorporated or constituted under the law of New Zealand

New Zealand craft means a New Zealand registered craft or a New Zealand chartered craft

New Zealand registered craft—

- (a) means a craft registered in New Zealand; and
- (b) includes, whether or not it is actually registered,—
 - (i) an aircraft required to be registered in New Zealand under the Civil Aviation Act 1990; and
 - (ii) a ship required or entitled to be registered in New Zealand under the Ship Registration Act 1992

owner, in relation to a craft, includes a person acting as the agent of the owner

property—

- (a) means everything that is capable of being owned, whether it is—
 - (i) real or personal property; and
 - (ii) tangible or intangible property; and
 - (iii) inside or outside New Zealand; and
- (b) includes a legal or an equitable estate or interest in property

resolution 2206 means resolution 2206 (2015) of the United Nations Security Council, adopted on 3 March 2015

resolution 2428 means resolution 2428 (2018) of the United Nations Security Council, adopted on 13 July 2018

ship has the same meaning as in section 2(1) of the Ship Registration Act 1992.

- (2) 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 designated persons; and
 - (b) any additions to, or deletions from, the list.

Regulation 3(1) **arms**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **certificate of clearance**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **charterer**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **craft**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **Customs**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **Customs officer**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **New Zealand chartered craft**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **New Zealand craft**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **New Zealand registered craft**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **owner**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **resolution 2206**: replaced, on 11 April 2019, by regulation 5(2) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **resolution 2428**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Regulation 3(1) **ship**: inserted, on 11 April 2019, by regulation 5(1) of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

Entry and transit of designated persons

4 Prohibition on designated persons entering or transiting through New Zealand

- (1) A designated person must not enter New Zealand or transit through New Zealand.
- (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 person from entering or transiting through New Zealand if—
 - (a) the Committee has determined that the entry or transit is justified on the grounds of humanitarian need, including religious obligation; or
 - (b) the entry or transit is necessary to give effect to a judicial process; or
 - (c) the Committee has determined that the entry or transit would further the objectives of resolution 2206.
- (4) A visa may be granted under the Immigration Act 2009 to a designated person only on the advice of the Secretary of Foreign Affairs and Trade that the visa is consistent with subclauses (1) to (3).
- (5) This regulation operates in addition to the requirements of the Immigration Act 2009 and of any regulations made under that Act.

Property of designated persons

5 Prohibition on dealing with property of designated persons

- (1) No person may knowingly transfer, sell, assign, dispose of, pay for, or otherwise deal with any property located in New Zealand that is owned or controlled, directly or indirectly,—
 - (a) by a designated person; or
 - (b) by an agent of a designated person.
- (2) Subclause (1) does not apply if the Minister has consented to the dealing in accordance with regulation 7.
- (3) It is a defence to a prosecution under this regulation if the defendant proves that he or she dealt with the property in good faith—
 - (a) at a time when he or she did not know that the property was property of the kind specified in subclause (1); or
 - (b) for the purpose of, or in connection with, the enforcement or intended enforcement of these regulations.

6 Prohibition on sending property to designated persons

- (1) No person in New Zealand, and no New Zealand citizen outside New Zealand, may knowingly send, transfer, or deliver, or knowingly cause to be sent, transferred, or delivered, whether directly or indirectly, any property—
 - (a) to a designated person; or
 - (b) for the benefit of a designated person.
- (2) Subclause (1) does not apply if the Minister has consented to the sending, transfer, or delivery of the property in accordance with regulation 7.

*Minister's consent in relation to property of designated persons***7 Minister may consent to activity prohibited by regulation 5(1) or 6(1)**

- (1) If the Minister consents to an activity under this regulation, the prohibitions in regulations 5(1) and 6(1) do not apply to the activity.
- (2) In deciding whether to consent to an activity under this regulation, the Minister must have regard to paragraphs 13, 14, and 15 of resolution 2206.
- (3) The Minister may consent to an activity prohibited by regulation 5(1) or 6(1) if the Minister is satisfied that the activity is necessary—
 - (a) for a designated person to meet basic expenses, and notice of the Minister's intention to consent has been given to the Committee and the Committee has not, within 5 working days after receiving the Minister's notification, made a negative decision in respect of the dealing; or
 - (b) for a designated person to meet extraordinary expenses, and notice of the Minister's intention to consent has been given to the Committee and the Committee has approved the dealing; or
 - (c) for a designated person to satisfy a judicial, administrative, or arbitral lien or judgment that took effect before 3 March 2015, other than a lien or judgment for the benefit of a designated person, and notice of the Minister's intention to consent has been given to the Committee.
- (4) 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 person that arose before the date of their designation.
- (5) The prohibitions in regulations 5(1) and 6(1) apply to interest and other earnings and payments added to an account under subclause (4).
- (6) The Minister may consent to a payment being made by a designated person under a contract entered into before the person became a designated person if—
 - (a) the Minister is satisfied that the payment will not, directly or indirectly, be received by a designated person; and

- (b) at least 10 working days' notice of the Minister's intention to consent has been given to the Committee.

Arms

Heading: inserted, on 11 April 2019, by regulation 6 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

7A Exporting arms to South Sudan

- (1) A person must not directly or indirectly export arms to South Sudan knowing that the arms are intended to be exported to South Sudan, or are intended for use in, or for the benefit of, South Sudan.
- (2) Subclause (1) does not apply to the exportation of—
 - (a) arms intended solely for the support of, or use by, United Nations personnel (including the United Nations Mission in the Republic of South Sudan (UNMISS) and the United Nations Interim Security Force for Abyei (UNISFA)); or
 - (b) non-lethal military equipment intended solely for humanitarian or protective use, as notified in advance to the Committee; or
 - (c) protective clothing (including flak jackets and military helmets) temporarily exported to South Sudan by United Nations personnel, representatives of the media, humanitarian and development workers, and associated personnel for their personal use only; or
 - (d) arms temporarily exported to South Sudan by the forces of a State that is taking action, in accordance with international law, solely and directly to facilitate the protection or evacuation of its nationals and those for whom it has consular responsibility in South Sudan, as notified to the Committee; or
 - (e) arms to, or in support of, the African Union Regional Task Force intended solely for regional operations to counter the Lord's Resistance Army, as notified in advance to the Committee; or
 - (f) arms solely in support of the implementation of the terms of the 17 August 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan, as approved in advance by the Committee; or
 - (g) any other arms approved in advance by the Committee.

Regulation 7A: inserted, on 11 April 2019, by regulation 6 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

7B Loading arms onto craft

The master or pilot-in-command of a craft must not allow arms to be loaded onto the craft knowing that the arms are intended to be exported to South Sudan, or are intended for use in, or for the benefit of, South Sudan.

Regulation 7B: inserted, on 11 April 2019, by regulation 6 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

7C Customs may refuse certificate of clearance

Customs may refuse to grant a certificate of clearance in respect of a craft that a Customs officer has reasonable cause to suspect is loaded with arms that are intended to be exported to South Sudan, or are intended for use in, or for the benefit of, South Sudan.

Regulation 7C: inserted, on 11 April 2019, by regulation 6 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

7D Application of Customs and Excise Act 2018

- (1) The provisions of the Customs and Excise Act 2018 (except sections 388 and 389) apply in relation to arms that are intended to be exported to South Sudan, or are intended for use in, or for the benefit of, South Sudan, as if they were goods the exportation of which is prohibited under section 96 of that Act.
- (2) The Comptroller of Customs must give any of those arms to which the Crown has title as forfeited goods to a person authorised in writing by the Secretary of Foreign Affairs and Trade to receive the arms (instead of disposing of the arms under section 189(2) of the Customs and Excise Act 2018).

Regulation 7D: inserted, on 11 April 2019, by regulation 6 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

7E Dealing with arms

- (1) A person must not sell, transfer, or otherwise deal with any arms knowing that they are intended to be supplied, sold, or transferred, directly or indirectly, to South Sudan, or are for use in, or for the benefit of, South Sudan.
- (2) Subclause (1) applies to—
 - (a) a person in New Zealand; and
 - (b) a New Zealand citizen in any place outside New Zealand.

Regulation 7E: inserted, on 11 April 2019, by regulation 6 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

7F Carrying arms on New Zealand craft

- (1) A person must not use a New Zealand craft to carry arms knowing that—
 - (a) the craft is carrying arms; and
 - (b) the carriage is, or forms part of, the carriage of those arms from any place to South Sudan.
- (2) Subclause (1) applies to,—
 - (a) in the case of a New Zealand registered craft,—
 - (i) the owner of the craft; and
 - (ii) the master or pilot-in-command of the craft;
 - (b) in the case of a New Zealand chartered craft,—
 - (i) the charterer of the craft; and

- (ii) the master or pilot-in-command of the craft, if the master or pilot is a New Zealand citizen.

Regulation 7F: inserted, on 11 April 2019, by regulation 6 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

7G Providing assistance or training

- (1) A person must not provide any assistance or training relating to military activities or to the provision, maintenance, or use of any arms, knowing that the assistance or training is provided to a person in South Sudan.
- (2) Subclause (1) applies to—
 - (a) a person in New Zealand; and
 - (b) a New Zealand citizen in any place outside New Zealand.
- (3) Subclause (1) does not apply to—
 - (a) assistance or training intended solely for the support of or use by United Nations personnel (including the United Nations Mission in the Republic of South Sudan (UNMISS) and the United Nations Interim Security Force for Abyei (UNISFA)); or
 - (b) technical assistance or training related to non-lethal military equipment intended solely for humanitarian or protective use, as notified in advance to the Committee; or
 - (c) technical training or assistance to or in support of the African Union Regional Task Force intended solely for regional operations to counter the Lord's Resistance Army, as notified in advance to the Committee; or
 - (d) technical training or assistance solely in support of the implementation of the terms of the 17 August 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan, as approved in advance by the Committee.
- (4) In subclause (1), **assistance** includes, without limitation, any of the following:
 - (a) technical assistance:
 - (b) any kind of financial assistance:
 - (c) advice and assistance relating to the repair, servicing, or refurbishment of arms:
 - (d) the provision of armed mercenary personnel.

Regulation 7G: inserted, on 11 April 2019, by regulation 6 of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 (LI 2019/48).

*Miscellaneous provisions***8 Offences**

Every person commits an offence against these regulations, and is liable accordingly under section 3 of the United Nations Act 1946, who breaches or fails to comply with any of the provisions of these regulations.

9 Attorney-General's consent and certificate in certain cases

If an offence against these regulations is alleged to have been committed outside New Zealand, a prosecution for the offence may not be commenced without—

- (a) the Attorney-General's consent; and
- (b) the Attorney-General's certificate that it is expedient that the proceedings be commenced.

Michael Webster,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the United Nations Sanctions (South Sudan) Regulations 2015 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 (South Sudan) Amendment Regulations 2019 (LI 2019/48)