



United Nations Sanctions (South Sudan) Amendment Regulations 2019

Patsy Reddy, Governor-General

Order in Council

At Wellington this 11th day of March 2019

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 2(1) of the United Nations Act 1946—

- (a) on the advice and with the consent of the Executive Council; and
- (b) 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.

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Regulations

1 Title

These regulations are the United Nations Sanctions (South Sudan) Amendment Regulations 2019.

2 Commencement

These regulations come into force on 11 April 2019.

3 Principal regulations

These regulations amend the United Nations Sanctions (South Sudan) Regulations 2015 (the **principal regulations**).

4 Enacting statement amended

In the enacting statement, replace paragraph (b) with:

- (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.

5 Regulation 3 amended (Interpretation)

- (1) In regulation 3(1), insert in their appropriate alphabetical order:

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

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

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

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) In regulation 3(1), replace the definition of **resolution 2206** with:

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

6 New regulations 7A to 7G and cross-heading inserted

After regulation 7, insert:

Arms

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.

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.

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.

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).

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.

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.

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.

Michael Webster,
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 amend the United Nations Sanctions (South Sudan) Regulations 2015. These regulations come into force on 11 April 2019.

These regulations, which impose an arms embargo on South Sudan, give effect to United Nations Security Council resolution 2428 (2018), adopted on 13 July 2018. The amendments made by these regulations prohibit—

- the exportation of arms to South Sudan or for use in or for the benefit of South Sudan (subject to stated exceptions):
- the loading onto craft of arms intended to be exported to South Sudan, or for use in, or for the benefit of, South Sudan:
- persons in New Zealand, and New Zealand citizens outside New Zealand, from selling, transferring, or otherwise dealing with arms that are covered by the exportation prohibition:
- the provision of military assistance or training to any person in South Sudan, subject to stated exceptions.

Issued under the authority of the Legislation Act 2012.

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