



United Nations Sanctions (Yemen) Amendment Regulations 2015

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 6th day of July 2015

Present:

The Rt Hon John Key presiding in Council

Pursuant to section 2 of the United Nations Act 1946, Her Excellency the Administrator of the Government 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 2216 (2015) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 14 April 2015, calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of Yemen the measures set out in that resolution.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 Regulation 3 replaced (Interpretation)	2
3 Interpretation	2
<i>Exportation of arms</i>	
3A Prohibition on exporting arms intended for designated persons	4
3B Prohibition on loading arms onto craft	4

	3C	Customs must not grant certificate of clearance	4
	3D	Application of Customs and Excise Act 1996	5
		<i>Dealing with and carrying arms</i>	
	3E	Prohibition on dealing with arms intended for designated persons	5
	3F	Prohibition on New Zealand craft carrying arms intended for designated persons	5
		<i>Training and assistance</i>	
	3G	Prohibition on providing training or assistance to designated persons	6
5		Regulation 4 amended (Designated persons to enter New Zealand only if consistent with determinations of Security Council)	6
6		Regulations 5 to 7 and cross-heading replaced	6
		<i>Property of designated persons</i>	
	5	Prohibition on dealing with property of designated persons	6
	6	Prohibition on sending property to designated persons	7
		<i>Minister's consent in relation to property of designated persons</i>	
	7	Minister may consent to activity prohibited by regulation 5(1) or 6(1)	7
7		Regulation 8 and cross-heading revoked	8

Regulations

1 Title

These regulations are the United Nations Sanctions (Yemen) Amendment Regulations 2015.

2 Commencement

These regulations come into force on 6 August 2015.

3 Principal regulations

These regulations amend the United Nations Sanctions (Yemen) Regulations 2014 (the **principal regulations**).

4 Regulation 3 replaced (Interpretation)

Replace regulation 3 with:

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) related materiel of all types (including weapons, ammunition, military vehicles and equipment, and paramilitary equipment); and
- (b) spare parts for any arms or related materiel

certificate of clearance means a certificate of clearance granted under the Customs and Excise Act 1996

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 19 of resolution 2140

craft has the meaning given to it by section 2(1) of the Customs and Excise Act 1996

Customs and Excise Act 1996 includes any regulations made under that Act with respect to prohibited exports

Customs officer has the meaning given to it by section 2(1) of the Customs and Excise Act 1996

designated person means an individual or entity designated by the Committee or Security Council as one to whom or to which the measures set out in the relevant resolution 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:
 - (ii) tangible or intangible property:
 - (iii) inside or outside New Zealand; and
- (b) includes a legal or an equitable estate or interest in property

relevant resolution means,—

- (a) in relation to regulations 3A to 3G, resolution 2216:
- (b) in relation to regulations 4 to 7, resolution 2140:
- (c) in relation to this regulation, either or both of those resolutions, as the case may be

resolution 2140 means resolution 2140 (2014) of the Security Council of the United Nations adopted on 26 February 2014

resolution 2216 means resolution 2216 (2015) of the Security Council of the United Nations adopted on 14 April 2015

the Customs has the meaning given to it by section 2(1) of the Customs and Excise Act 1996.

- (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.

Exportation of arms

3A Prohibition on exporting arms intended for designated persons

A person must not directly or indirectly export arms that are intended to be sold or transferred to a designated person or an agent of a designated person.

3B Prohibition on loading arms onto craft

The master or pilot of a craft must not allow arms to be loaded onto the craft if he or she knows that the arms are intended to be exported in breach of regulation 3A.

3C Customs must not grant certificate of clearance

The Customs must not grant a certificate of clearance in respect of a craft that a Customs officer has reasonable cause to suspect is loaded with arms whose exportation is prohibited by regulation 3A.

3D Application of Customs and Excise Act 1996

- (1) The provisions of the Customs and Excise Act 1996 (except sections 209, 231(3)(b), 233(1)(c), 234, 235, 235C(b)(ii), 236(2) to (4), and 237(2)) apply in relation to arms whose exportation is prohibited by regulation 3A as if they were goods the exportation of which is prohibited under section 56(1) 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 to receive the arms (instead of disposing of the arms under section 237(2) of the Customs and Excise Act 1996).

*Dealing with and carrying arms***3E Prohibition on dealing with arms intended for designated persons**

- (1) A person must not sell, transfer, or otherwise deal with, any arms knowing that they are intended to be sold or transferred to a designated person or an agent of a designated person.
- (2) Subclause (1) applies both to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

3F Prohibition on New Zealand craft carrying arms intended for designated persons

- (1) A New Zealand craft must not be used to carry arms that are intended to be sold or transferred to a designated person or an agent of a designated person.
- (2) Each of the following persons is guilty of an offence if a New Zealand craft is used in breach of subclause (1):
 - (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, so long as the master or pilot is a New Zealand citizen.
- (3) It is a defence to a prosecution under this regulation if the defendant proves that he or she did not know and had no reason to suspect—
 - (a) that the craft was carrying arms; or
 - (b) that the arms were intended to be sold or transferred to a designated person or an agent of a designated person.
- (4) Subclause (1) does not limit regulations 3A to 3E.

Training and assistance

3G Prohibition on providing training or assistance to designated persons

- (1) A person must not provide the following training or assistance to, or at the request of, a designated person or an agent of a designated person:
 - (a) training or assistance related to military activities; or
 - (b) training or assistance related to the provision, manufacture, maintenance, or use of arms.
- (2) Subclause (1) applies both to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

5 Regulation 4 amended (Designated persons to enter New Zealand only if consistent with determinations of Security Council)

- (1) Replace the heading to regulation 4 with “**Prohibition on designated persons entering or transiting through New Zealand**”.
- (2) Replace regulation 4(1) with:
 - (1) A designated person must not enter New Zealand or transit through New Zealand.

6 Regulations 5 to 7 and cross-heading replaced

Replace regulations 5 to 7 and the cross-heading above regulation 5 with:

Property of designated persons

5 Prohibition on dealing with property of designated persons

- (1) A person must not 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) A person must not knowingly send, transfer, or deliver any property, or knowingly cause any property to be sent, transferred, or delivered, whether directly or indirectly,—
 - (a) to a designated person; or
 - (b) for the benefit of a designated person.
- (2) Subclause (1) applies both to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.
- (3) 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 12, 13, and 14 of resolution 2140.
- (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 26 February 2014, 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.

7 Regulation 8 and cross-heading revoked

Revoke regulation 8 and the cross-heading above regulation 8.

Martin Bell,
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 6 August 2015, amend the United Nations Sanctions (Yemen) Regulations 2014 (the **principal regulations**) in order to give effect to resolution 2216 (2015) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 14 April 2015.

The amendments prohibit—

- the exportation of arms that are intended for individuals or entities designated by the Committee or by the United Nations Security Council (**designated persons**):
- persons in New Zealand, and New Zealand citizens in places outside New Zealand, from selling, transferring, or otherwise dealing with arms that are intended for designated persons:
- New Zealand craft from carrying arms that are intended for designated persons:
- persons in New Zealand, and New Zealand citizens in places outside New Zealand, from providing training or assistance to designated persons in relation to military activities or the use and maintenance, etc, of arms.

The amendments also modernise existing provisions of the principal regulations. The amended provisions continue to give effect to resolution 2140 (2014) of the Security Council of the United Nations.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 9 July 2015.

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