



United Nations Sanctions (Sudan) Amendment Regulations 2022

Rt Hon Dame Helen Winkelmann, Administrator of the Government

Order in Council

At Wellington this 1st day of August 2022

Present:

Her Excellency the Administrator of the Government 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 1945 (2010) of the Security Council of the United Nations, adopted under the United Nations Charter on 14 October 2010.

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Regulations

1 Title

These regulations are the United Nations Sanctions (Sudan) Amendment Regulations 2022.

2 Commencement

These regulations come into force on 1 September 2022.

3 Principal regulations

These regulations amend the United Nations Sanctions (Sudan) Regulations 2004.

4 Regulation 3 amended (Interpretation)

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

Comprehensive Peace Agreement means the Comprehensive Peace Agreement entered into between the Government of the Republic of the Sudan and the Sudan People’s Liberation Movement/Sudan People’s Liberation Army in Nairobi, Kenya on 9 January 2005

(2) In regulation 3, revoke the definition of **resolution**.

5 Regulation 4 amended (Exportation of arms to Sudan prohibited)

(1) In regulation 4(1), after “Sudan”, insert “knowing that the arms are intended to be exported to Sudan, or are intended for use in, or for the benefit of, Sudan”.

(2) In regulation 4(3), replace “does not apply to—” with “does not apply to arms described in 1 or more of the following paragraphs (**qualifying arms**) that are accompanied by end-user documentation sufficient to enable member States of the United Nations to ascertain that they are qualifying arms:”.

- (3) In regulation 4(3)(a), delete “and related technical training and assistance”.
- (4) In regulation 4(3)(b), delete “ , and related technical training and assistance”.
- (5) After regulation 4(3)(c), insert:
 - (d) supplies that are provided to support the implementation of the Comprehensive Peace Agreement and the provision of which has, if that implementation is in the states of North Darfur, South Darfur, or West Darfur, been notified to the Committee in advance by the Government of New Zealand; or
 - (e) movements of military equipment and supplies into the Darfur region that are approved in advance by the Committee upon a request by the Government of Sudan.

6 Regulation 5 amended (Customs and Excise Act 2018 to apply to prohibited exports)

- (1) In regulation 5, replace “goods whose exportation is prohibited by regulation 4 as if the exportation of the goods” with “arms that are intended to be exported to Sudan, or are intended for use in, or for the benefit of, Sudan, as if the exportation of the arms”.
- (2) In regulation 5, insert as subclause (2):
 - (2) Subclause (1) does not apply to particular goods or to goods of a particular class if—
 - (a) the Minister has consented to the exportation of those goods; or
 - (b) the goods are of the kind described in regulation 4(3)(a) to (e).

7 Regulation 6 amended (Detention of prohibited exports)

- (1) In regulation 6, replace “he or she suspects on reasonable grounds to be goods whose exportation is prohibited by regulation 4” with “that the Customs officer has reasonable cause to suspect are prohibited goods”.
- (2) In regulation 6, insert as subclause (2):
 - (2) In this regulation, **prohibited goods** means arms that are intended to be exported to Sudan, or are intended for use in, or for the benefit of, Sudan, other than—
 - (a) goods to whose exportation the Minister has consented; and
 - (b) goods of the kind described in regulation 4(3)(a) to (e).

8 Regulation 7 amended (Prohibited exports not to be loaded onto ships or aircraft)

- (1) In regulation 7, replace “goods whose exportation is prohibited by regulation 4, knowing that the goods are intended to be exported in contravention of that regulation” with “arms, knowing that the arms are intended to be exported to

Sudan, or knowing that they are intended for use in, or for the benefit of, Sudan”.

- (2) In regulation 7, insert as subclause (2):
- (2) Subclause (1) does not apply to particular goods or to goods of a particular class if—
 - (a) the Minister has consented to the exportation of those goods; or
 - (b) the goods are of the kind described in regulation 4(3)(a) to (e).

9 Regulation 8 amended (Power to withhold clearance of ship or aircraft)

- (1) In regulation 8, replace “goods any Customs officer knows to be goods whose exportation is prohibited by regulation 4” with “arms that any Customs officer has reasonable cause to suspect are prohibited goods”.
- (2) In regulation 8, insert as subclause (2):
- (2) In this regulation, **prohibited goods** has the meaning given in regulation 6(2).

10 Regulation 9 amended (Transactions with persons in Sudan in relation to arms prohibited)

- (1) In regulation 9(1), replace “any of the goods specified in regulation 4, knowing that those goods” with “any arms, knowing that those arms”.
- (2) Replace regulation 9(1)(b) with:
 - (b) are intended for use in, or for the benefit of, Sudan.
- (3) Replace regulation 9(2) with:
 - (2) Subclause (1) does not apply to particular goods or to goods of a particular class if—
 - (a) the Minister has consented to the sale, transfer, carriage, delivery, or other dealing with, those goods; or
 - (b) the goods are of the kind described in regulation 4(3)(a) to (e).

11 Regulation 10 amended (Carriage of arms to Sudan prohibited)

Replace regulation 10(1) and (2) with:

- (1) No ship or aircraft may be used for the carriage of arms if the carriage is, or forms part of, the carriage of those arms from any place to Sudan.
- (2) Subclause (1) does not apply if—
 - (a) the Minister has consented to the carriage under regulation 4(2) or 9(2)(a); or
 - (b) the arms are of the kind described in regulation 4(3)(a) to (e).

12 Regulation 11 amended (Liability of owner, charterer, master, or pilot in command)

In regulation 11(2), replace “However, it is a defence to any such offence if the person concerned proves that he or she did not know and had no reason to suppose” with “However, a person is not guilty of an offence under subclause (1) unless they knew”.

13 Regulation 12 amended (Provision to Sudan of technical training or assistance relating to arms prohibited)

(1) Replace regulation 12(1) with:

(1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may provide any technical training or assistance relating to the provision, manufacture, maintenance, or use of any arms, knowing that it is provided to a person in Sudan.

(2) Replace regulation 12(2)(b) with:

- (b) the technical training or assistance—
- (i) is related to supplies to which regulation 4(3)(a) applies and is provided for the purpose described in that regulation; or
 - (ii) is related to non-lethal military equipment to which regulation 4(3)(b) applies and is intended solely for the purpose described in that regulation; or
 - (iii) is assistance that is provided to support the implementation of the Comprehensive Peace Agreement and that, if that implementation is in the States of North Darfur, South Darfur, or West Darfur, has been notified to the Committee in advance by the Government of New Zealand.

14 Regulation 13 amended (Preconditions to Minister’s consent)

(1) In regulation 13(a), replace “paragraphs 7 and 8 of the resolution” with “paragraphs 7 and 8 of Resolution 1556 (2004) of the Security Council of the United Nations and paragraph 7 of Resolution 1591 (2005) of the Security Council of the United Nations”.

(2) Replace regulation 13(b) with:

- (b) is specified in paragraph 8(a), (b), or (c) of Resolution 1945 (2010) of the Security Council of the United Nations as an activity to which those measures do not apply, and will be carried out consistently with paragraphs 9 and 10 of that resolution.

15 Regulation 13A amended (Prohibition on dealings in assets, money, or securities of, or derived from property of, designated persons)

(1) In regulation 13A(1),—

- (a) delete “knowingly”; and

- (b) in paragraph (a), replace “that is” with “that the person knows is”.
- (2) Revoke regulation 13A(2).

16 Regulation 13B amended (Prohibition on sending funds, etc, to designated persons)

In regulation 13B, replace “knowingly send, transfer, or deliver, or knowingly cause to be sent, transferred, or delivered, whether directly or indirectly, any asset, money, or security” with “send, transfer, or deliver, or cause to be sent, transferred, or delivered, whether directly or indirectly, any asset, money, or security, knowing that it is being sent, transferred, or delivered”.

Rachel Hayward,
Acting 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 1 September 2022, amend the United Nations Sanctions (Sudan) Regulations 2004 (the **principal regulations**). They relate to the arms embargo and other United Nations Security Council sanctions against the Republic of the Sudan (**Sudan**) that are provided for by the principal regulations.

Regulations 4, 5(2) to (5), 13(2), and 14 of these regulations give effect to United Nations Security Council resolution 1945 (2010), adopted on 14 October 2010. They—

- introduce new exceptions to the arms embargo, so that it no longer applies to—
 - certain arms, training, and assistance that are provided in support of the 2005 peace agreement between the Sudanese Government and the Sudan People’s Liberation Movement:
 - movements of military equipment and supplies into Darfur for which the Sudanese Government has obtained prior approval from the relevant Security Council committee:
- require arms being exported to Sudan under any of the exceptions to the arms embargo to be accompanied by end-user documentation showing that they are excepted:
- make various minor amendments, for example, to update references to Security Council resolutions and to streamline the drafting of the principal regulations.

Regulations 5(1), 12, 13(1), 15, and 16 introduce a knowledge requirement for certain offences under the principal regulations and make related amendments. The main effect of these changes is that no offence under the arms embargo or asset freeze provisions is committed unless the person knows that what they are doing is connected

with Sudan. Previously, a person could be guilty even if they were unaware of their act's link with Sudan.

Regulations 6 to 11 make minor amendments that are consequential on the amendment made by *regulation 5(1)*.

Issued under the authority of the Legislation Act 2019.

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