



## **United Nations Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2001**

Silvia Cartwright, Governor-General

### **Order in Council**

At Wellington this 26th day of November 2001

Present:

Her Excellency the Governor-General in Council

Pursuant to section 2 of the United Nations Act 1946, Her Excellency the Governor-General, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) for the purpose of giving effect to the following resolutions of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on the following dates,—
  - (i) resolution 1267 (1999), of 15 October 1999; and
  - (ii) resolution 1333 (2000), of 19 December 2000; and
  - (iii) resolution 1373 (2001), of 28 September 2001,—calling upon the Government of New Zealand and all other member States of the United Nations to apply the measures set out in those resolutions,—  
makes the following regulations.

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## Regulations

### 1 Title

These regulations are the United Nations Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2001.

### *Preliminary provisions*

### 2 Commencement

These regulations come into force on 1 December 2001.

### 3 Expiry

These regulations expire with the close of 30 June 2002.

### 4 Interpretation

(1) In these regulations, unless the context otherwise requires,—

**Al-Qaida entity—**

- (a) means the Al-Qaida organization; and
- (b) includes an entity (other than the Al-Qaida organization) designated, by or under 1 or more resolutions of the Security Council relating to Afghanistan, as being an entity associated with Usama bin Laden and against whom a sanction imposed by those resolutions and provided for in regulation 7 or regulation 9 is to be imposed

**entity** means a person, group, trust, partnership, or fund, or an unincorporated association or organisation

**funds—**

- (a) means assets of every kind, whether tangible or intangible, moveable or immovable, however acquired; and
- (b) includes legal documents or instruments (for example, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts, and letters of credit) in any form (for example, in electronic or digital form) evidencing title to, or an interest in, assets of any kind

**New Zealand** includes Tokelau

**property—**

- (a) means real or personal property of any description, whether situated in New Zealand or elsewhere and whether tangible or intangible; and
- (b) includes an interest in any real or personal property of that kind

**specified entity** has the meaning given to it in regulation 5

**the Taliban** means the Afghan faction known as the Taliban, which also calls itself the Islamic Emirate of Afghanistan

**Taliban entity** means an entity (other than an Al-Qaida entity or the Taliban or Usama bin Laden) designated, by or under 1 or more resolutions of the Security Council relating to Afghanistan, as an entity against whom a sanction imposed by those resolutions and provided for in regulation 7 or regulation 9 is to be imposed.

- (2) A reference in these regulations to the transfer of property that is a security includes a reference to a transfer of the security by way of loan, mortgage, pledge, or bailment, whether in respect of a legal or an equitable interest.

- (3) The Minister of Foreign Affairs and Trade 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 the names, and of any other known identifying details, of entities that are specified entities to whom some or all of the provisions of these regulations apply:
  - (b) any additions to, or deletions from, the list referred to in paragraph (a).

Compare: SR 2001/26 r 3

## 5 Application

These regulations apply in respect of the entities referred to in column 1 of the table in the Schedule, to the extent specified in column 2 of that table opposite the references to those entities, and references in these regulations to a **specified entity** must be read accordingly.

### *Prohibition on collecting or providing funds*

## 6 Collecting or providing funds for specified entities

- (1) No person in New Zealand and no New Zealand citizen in any place outside New Zealand may, directly or indirectly, wilfully and without lawful justification or reasonable excuse, provide or collect funds intending that they be used, or knowing that they are to be used, in full or in part, by a specified entity.
- (2) In a prosecution for an offence against these regulations of contravening subclause (1), it is not necessary for the prosecutor to prove that the funds collected or provided were actually used, in full or in part, by a specified entity.

### *Prohibition on dealing with property*

## 7 Dealing with property of, or derived or generated from property of, specified entities

- (1) No person in New Zealand and no New Zealand citizen in any place outside New Zealand may, without lawful justification or reasonable excuse, deal with any property knowing that the property is—
  - (a) property owned or controlled, whether directly or indirectly, by a specified entity; or

- (b) property derived or generated from any property of the kind specified in paragraph (a).
- (2) Subclause (1) does not apply if the Minister of Finance has, under regulation 10, authorised that dealing with the property (for example, to enable a third party with a valid interest in the property, or in the maintenance or disposition of it, to obtain relief).
- (3) In this regulation, **deal with**, in relation to any property,—
- (a) means to use or deal with the property, in any way and by any means, for example, to acquire possession of, or a legal or an equitable interest in, transfer, pay for, sell, assign, or dispose of (including by way of gift) the property; and
- (b) includes allowing the property to be used or dealt with, or facilitating the use of it or dealing with it.

Compare: SR 2001/26 r 15

*Duty to report suspicions relating to property*

**8 Property suspected to be owned or controlled by specified entities to be reported**

- (1) A person in possession or control of property that the person suspects on reasonable grounds is property that is or may be owned or controlled by, or on behalf of, a specified entity must, as soon as practicable after forming that suspicion, report it to the Commissioner of Police.
- (2) Nothing in subclause (1) requires any lawyer to disclose any privileged communication (as that expression is defined in section 19 of the Financial Transactions Reporting Act 1996).

*Prohibition on making available property and certain services*

**9 Making property, or financial or other related services, available to specified entities**

- (1) No person in New Zealand and no New Zealand citizen in any place outside New Zealand may make available, or cause to be made available, directly or indirectly, without lawful justification or reasonable excuse, any property, or any financial or business or professional services, either to, or for the benefit

- of, a specified entity, knowing that the entity is a specified entity.
- (2) An example of a person making property available with a lawful justification, for the purposes of subclause (1), is where the property the person made available is items of food, clothing, or medicine, that are necessities of life.
  - (3) Subclause (1) does not apply if the Minister of Finance has, under regulation 10, authorised that making available of the property or services (for example, to enable a third party with a valid interest in the property, or in the maintenance or disposition of it, to obtain relief).
  - (4) In this regulation, **make available**, in relation to any property or services, means to make the property or services available in any way and by any means (for example, to send, transfer, deliver, or provide the property or services).

Compare: SR 2001/26 r 16

#### *Authorised activities or transactions*

### **10 Minister of Finance may authorise activities or transactions**

- (1) The Minister of Finance may, by notice in writing, permit any 1 or more activities or transactions, or classes of activities or transactions, that would otherwise be prohibited by regulation 7 or regulation 9.
- (2) Any authorisation of that kind—
  - (a) may be subject to terms or conditions; and
  - (b) may be amended, or revoked, or revoked and replaced.
- (3) If a person has obtained an authorisation of that kind, no other person involved in carrying out the activity or transaction, or class of activities or transactions, to which the authorisation relates, is subject to regulation 7 or regulation 9 if the terms or conditions of the authorisation that are imposed under subclause (2)(a), if any, are satisfied.

#### *Prohibitions on recruitment and participation*

### **11 Recruiting members of specified groups**

No person in New Zealand and no New Zealand citizen in any place outside New Zealand may recruit another person as a

member of a group or organisation, knowing that the group or organisation is a specified entity.

## **12 Participating in specified groups**

No person in New Zealand and no New Zealand citizen in any place outside New Zealand may participate in a group or organisation, knowing that the group or organisation is a specified entity.

### *Miscellaneous provisions*

## **13 Protection of persons**

- (1) A person has immunity from civil, criminal, or disciplinary proceedings to the extent provided in subclauses (2) and (3) if the person—
  - (a) acts in purported compliance with the requirements of regulation 7 or regulation 9 or both; or
  - (b) reports a suspicion to the Commissioner of Police under regulation 8; or
  - (c) discloses information in connection with a report of that kind.
- (2) No civil, criminal, or disciplinary proceedings lie against a person to whom subclause (1) applies—
  - (a) in respect of the acts of the person in good faith and with reasonable care in purported compliance with the requirements of regulation 7 or regulation 9 or both; or
  - (b) in respect of the report or disclosure, or the manner of the report or disclosure, by that person, of the information referred to in subclause (1)(b) and (c); or
  - (c) for any consequences that follow from the report or disclosure of that information.
- (3) However, subclause (2)(b) and (c) do not apply if the information was reported or disclosed in bad faith, or without reasonable care having been taken in determining, before the report or disclosure, that an entity is a specified entity.

## **14 Offences**

Every person commits an offence against these regulations, and is liable accordingly under section 3 of the United Nations

Act 1946, who acts in contravention of or fails to comply in any respect with any of the provisions of these regulations.

Compare: SR 2001/26 r 18

**15 Attorney-General's consent required for prosecutions**

- (1) No prosecution for an offence against these regulations may be instituted in any court except with the consent of the Attorney-General.
- (2) However, a person alleged to have committed an offence against these regulations may be arrested, or a warrant for the person's arrest may be issued and executed, and the person may be remanded in custody or on bail, even though the Attorney-General's consent under subclause (1) has not been obtained.

**16 United Nations Sanctions (Afghanistan) Regulations 2001 not affected**

Nothing in these regulations affects the United Nations Sanctions (Afghanistan) Regulations 2001 (SR 2001/26).

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**Schedule  
Specified entities**

r 5

<b>Entity</b>	<b>Provisions that apply to the entity</b>
Every Al-Qaida entity (as defined in regulation 4(1))	Every provision of these regulations
The Taliban (as defined in regulation 4(1))	Every provision of these regulations
Every Taliban entity (as defined in regulation 4(1))	Every provision of these regulations
Usama bin Laden	Every provision of these regulations, except regulations 11 and 12

Marie Shroff,  
Clerk of the Executive Council.

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### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations implement—

- measures against the Taliban and Taliban entities, and against Usama bin Laden and Al-Qaida entities, called for—
  - in resolution 1267 (1999) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 15 October 1999; and
  - in resolution 1333 (2000) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 19 December 2000; and
- terrorism suppression measures, called for in resolution 1373 (2001) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 28 September 2001.

#### *Entities against whom measures apply*

The measures apply against the entities specified in column 1 of the table in the *Schedule*, to the extent specified in column 2 of that table (but do not limit other measures against the Taliban and Taliban entities, under the United Nations Sanctions (Afghanistan) Regulations 2001 (SR 2001/26)).

Those specified entities include not only entities who there are reasonable grounds to believe have been associated with the carrying out of terrorist acts, but also entities from time to time designated by, or under the authority of, the Security Council, as entities against whom sanctions relating to Afghanistan are to be imposed. That designation occurs by being named in, or by being named by a Council Committee established under, a resolution of the Council.

Entities who have been designated in that way include Usama bin Laden and entities associated with him, including those in the Al-Qaida organization, and a large number of others, for example, Mullah Mohammed Omar, Al-Nur Honey Press Shops, and the network of Barakaat entities that includes Al-Barakaat Bank, Mogadishu, Somalia. As at the time these regulations are made, details of entities designated by or under the resolutions can be

found through an Internet site, giving the text of press releases relating to the Council Committee established under resolution 1267 (1999), at the following Uniform Resource Locator (URL):

- <http://www.un.org/Docs/sc/committees/Afghanistan/AfghanPressEng.htm>

### *Terrorism suppression and other measures implemented*

The measures provided for in these regulations are—

- a prohibition on collecting or providing funds for the entities:
- a prohibition on dealing with property they own or control:
- a duty to report suspicions that property is property of that kind:
- a prohibition on making property, or financial or other related services, available to the entities:
- a prohibition on recruiting persons as members of them:
- a prohibition on participating in them.

The prohibitions on dealing with property and on making available property or services are the ones required by resolution 1373 (2001). They are consistent with, but in some respects more extensive than, similar ones required by resolutions 1267 (1999) and 1333 (2000) (which do not, for example, extend to services). Those prohibitions were formerly implemented through regulations 15 and 16 of the United Nations (Afghanistan) Regulations 2001, which contained no duty to report. So, for consistency and to avoid duplication, those prohibitions are now implemented through these regulations.

### *Commencement and expiry*

These regulations come into force on 1 December 2001 and expire with the close of 30 June 2002.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 29 November 2001.

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

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