

Reprint

as at 23 November 2007

United Nations Sanctions (Afghanistan) Regulations 2001

(SR 2001/26)

United Nations Sanctions (Afghanistan) Regulations 2001: revoked, on 23 November 2007, by regulation 17 of the United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 (SR 2007/356).

Pursuant to section 2 of the United Nations Act 1946, His 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 resolution 1267 (1999) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 15 October 1999, and to resolution 1333 (2000) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 19 December 2000, calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of the Taliban the measures set out in that resolution,—
- makes the following regulations.

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

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

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1 Title

These regulations are the United Nations Sanctions (Afghanistan) Regulations 2001.

2 Commencement

These regulations come into force on 16 March 2001.

3 Interpretation

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

Al-Qaida entity—

- (a) means the Al-Qaida organisation; and
- (b) includes an entity (other than the Al-Qaida organisation) 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 regulations is to be imposed

Al-Qaida entity: this definition was inserted, as from 16 April 2002, by regulation 3(3) United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

arms includes—

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

Customs or the Customs, and Customs officer have the same meaning as in section 2(1) of the Customs and Excise Act 1996

Entity means a person, group, trust, partnership, or fund, or an unincorporated association or organisation.

Entity: this definition was substituted for the definition money, as from 1 December 2001, by regulation 3(1) United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352).

New Zealand includes Tokelau

New Zealand aircraft means any aircraft that is registered or required to be registered in New Zealand under the Civil Aviation Act 1990

New Zealand ship means a ship registered in New Zealand, or recognised by the law of New Zealand as a ship belonging to New Zealand

security*[Revoked]*

Security this definition was revoked, as from 1 December 2001, by regulation 3(2) United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352).

[Revoked]

specified entity means—

- (a) Usama bin Laden:
- (b) the Taliban:
- (c) a Taliban entity:
- (d) an Al-Qaida entity.

specified entity: this definition was inserted, as from 16 April 2002, by regulation 3(3) United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

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

Taliban aircraft*[Revoked]*

Taliban aircraft: this definition was revoked, as from 16 April 2002, by regulation 3(1) United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

[Revoked]

Taliban-controlled area means any area within the territory of Afghanistan that, in accordance with 1 or more resolutions of the Security Council, is for the time being designated as being controlled by the Taliban

Taliban entity means an entity (other than Usama bin Laden, an Al-Qaida entity, or the Taliban) designated, by or under 1 or more resolutions of the Security Council, as an entity against

whom a sanction imposed by those resolutions is to be imposed.

Taliban entity this definition was substituted, as from 1 December 2001, by regulation 3(3) United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352).

Taliban entity this definition was substituted, as from 16 April 2002, by regulation 3(2) United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

(2)

(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 of any entities who, in accordance with 1 or more resolutions of the Security Council relating to Afghanistan and imposing sanctions, are for the time being designated as Taliban entities in relation to a sanction:

(b) a notice setting out details of any areas within the territory of Afghanistan that, in accordance with 1 or more resolutions of the Security Council, are for the time being designated as Taliban-controlled areas:

(c) any additions to, or deletions from, the list referred to in paragraph (a), or the notice referred to in paragraph (b).

Compare: SR 1993/336 r 10C(5), SR 1999/415 r 2

Subclause (2) was revoked, as from 1 December 2001, by regulation 3(4) United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352).

Subclause (3) was amended, as from 1 December 2001, by regulation 3(5) United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352) by substituting the words “, in any manner the Minister thinks fit (for example, by notice in the *Gazette*, or publication on the Internet, or both),” for the words “in the *Gazette*”.

Subclause (3)(a) was substituted, as from 1 December 2001, by regulation 3(6) United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352).

Subclause (3)(a) was amended, as from 16 April 2002, by regulation 3(4) United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89) by omitting the words “provided for in regulation 17”.

Export of arms to specified entity prohibited

This heading was substituted, as from 16 April 2002, by regulation 4 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

The previous heading read “Exportation of acetic anhydride and arms to Taliban-controlled area prohibited”.

4 Exportation of arms to specified entity prohibited

- (1) No person may directly or indirectly export arms from New Zealand to a specified entity.
- (2) Subclause (1) does not apply to particular goods or to goods of a particular class if the Minister of Foreign Affairs and Trade has consented to that exportation of those goods.

Regulation 4 was substituted, as from 16 April 2002, by regulation 5 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

5 Customs and Excise Act 1996 to apply to prohibited exports

All provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) apply with respect to goods whose exportation is prohibited by regulation 4 in all respects as if the exportation of the goods were prohibited under section 56 of that Act.

Compare: SR 2000/223 r 5

6 Detention of prohibited exports

A Customs officer may detain any goods he or she suspects on reasonable grounds to be goods whose exportation is prohibited by regulation 4.

Compare: SR 2000/223 r 6

7 Prohibited exports not to be loaded onto ships or aircraft

The master of a ship or the pilot in command of an aircraft must not permit to be laden in the ship or aircraft any goods whose exportation is prohibited by regulation 4, knowing that the goods are intended to be exported in contravention of that regulation.

Compare: SR 2000/223 r 7

8 Power to withhold clearance of ship or aircraft

The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods

any Customs officer knows to be goods whose exportation is prohibited by regulation 4.

Compare: SR 2000/223 r 8

Transactions in relation to dealing in arms with specified entity prohibited

This heading was substituted, as from 16 April 2002, by regulation 6 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89). The previous heading read “Transactions in relation to imports of acetic anhydride and arms into Taliban-controlled area prohibited”.

9 Transactions with specified entity in relation to arms prohibited

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may enter into, or be concerned in, any sale, transfer, carriage, or delivery of, or other dealing with, any of the goods specified in regulation 4, knowing that those goods—
 - (a) are intended to be imported by a specified entity; or
 - (b) are to be supplied or delivered to, or to the order of, a specified entity.
- (2) Subclause (1) does not apply to particular goods or to goods of a particular class if the Minister of Foreign Affairs and Trade has consented to that sale, transfer, carriage, or delivery of, or other dealing with, those goods.

Regulations 9 to 12 were substituted, as from 16 April 2002, by regulation 7 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

Carriage of arms to specified entity prohibited

This heading was substituted, as from 16 April 2002, by regulation 7 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89). The heading previously read “Carriage of acetic anhydride and arms to Taliban-controlled area prohibited”.

10 Carriage of arms to specified entity prohibited

- (1) No ship or aircraft may be used for the carriage of any of the goods specified in regulation 4 if the carriage is, or forms part

of, the carriage of those goods from any place to a specified entity.

- (2) Subclause (1) does not apply if the Minister of Foreign Affairs and Trade has consented to that carriage of the goods under regulation 4(2) or regulation 9(2).
- (3) In subclause (1), **ship or aircraft** means—
 - (a) any New Zealand ship or New Zealand aircraft (as those terms are defined in regulation 3(1));
 - (b) any other ship or aircraft that is, for the time being, chartered to any New Zealand citizen, or to any body incorporated or constituted under the law of New Zealand.
- (4) Subclause (1) does not limit any of regulations 4 to 9.

Compare: SR 2000/223 r 10

Regulations 9 to 12 were substituted, as from 16 April 2002, by regulation 7 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

11 Liability of owner, charterer, master, or pilot in command

- (1) If any ship or aircraft is used in contravention of regulation 10, each of the following persons is guilty of an offence against these regulations:
 - (a) in the case of a New Zealand ship or New Zealand aircraft (as those terms are defined in regulation 3(1)), the owner and the master of the ship or, as the case requires, the owner and the pilot in command of the aircraft;
 - (b) in the case of any other ship or aircraft, the charterer of the ship or aircraft and, if the master of the ship or pilot in command of the aircraft is a New Zealand citizen, the master or pilot in command.
- (2) 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—
 - (a) that the goods carried on the ship or aircraft were or included arms; or
 - (b) that the carriage of the arms was, or formed part of, the carriage of goods from any place to a specified entity.

- (3) In this regulation, **owner** and **charterer**, in relation to a ship, include any person acting as the agent of the owner or, as the case requires, the agent of the charterer.

Compare: SR 2000/223 r 11

Regulations 9 to 12 were substituted, as from 16 April 2002, by regulation 7 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

Provision to specified entity of technical assistance or training relating to arms prohibited

This heading was substituted, as from 16 April 2002, by regulation 7 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89). The heading previously read "Provision to Taliban-controlled area of technical assistance or training relating to arms prohibited".

12 Provision to area controlled by specified entity of technical assistance or training relating to arms prohibited

- (1) No person in New Zealand, and no New Zealand citizen in any place outside New Zealand, may provide to, or at the request of, any specified entity any technical assistance or training relating to the provision, manufacture, maintenance, or use of any arms.
- (2) Subclause (1) does not apply if the Minister of Foreign Affairs and Trade has consented to that provision of the assistance or training.

Compare: SR 2000/223 r 12

Regulations 9 to 12 were substituted, as from 16 April 2002, by regulation 7 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

Entry of certain persons into New Zealand

This heading was inserted inserted, as from 16 April 2002, by regulation 7 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

12A Entry of certain persons into New Zealand

- (1) No person who is a specified entity may enter New Zealand, or transit through New Zealand, if the entry or transit would be contrary to a determination of the Security Council made under Article 41 of the Charter of the United Nations.

- (2) A permit or visa may be granted or issued, under the Immigration Act 1987, to a person who is a specified entity only on the advice of the Secretary of Foreign Affairs and Trade that the permit or visa is consistent with subclause (1).
- (3) This regulation operates in addition to the requirements of the Immigration Act 1987 and of any regulations made under that Act.

Compare: SR 1997/281 r 11.

Regulation 12A was inserted, as from 16 April 2002, by regulation 7 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

Flights to or from Taliban-controlled areas

This heading was amended, as from 16 April 2002, by regulation 8 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89), by omitting the words “by Taliban aircraft, or”.

13 Taliban aircraft not to land in, or take-off from, New Zealand

[Revoked]

Regulations 13 and 14 were revoked, as from 16 April 2002, by regulation 9 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

14 No aircraft flying to or from Taliban-controlled areas to take-off from, land in, or fly over, New Zealand

[Revoked]

Regulations 13 and 14 were revoked, as from 16 April 2002, by regulation 9 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

Funds of or for Taliban and Taliban entities

[Revoked]

This heading was revoked, as from 1 December 2001, by regulation 4 United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352).

15 Prohibition on dealings in assets, money, or securities held by, or derived from property of, Taliban and Taliban entities

[Revoked]

Regulations 15 and 16 were revoked, as from 1 December 2001, by regulation 4 United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352).

16 Prohibition on sending funds to Taliban and Taliban entities

[Revoked]

Regulations 15 and 16 were revoked, as from 1 December 2001, by regulation 4 United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352).

Offices of Taliban and of Taliban entities

[Revoked]

This heading was revoked, as from 16 April 2002, by regulation 10 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

17 Offices of Taliban and Taliban entities not to be established or maintained

[Revoked]

Regulation 17 was revoked, as from 16 April 2002, by regulation 11 United Nations Sanctions (Afghanistan) Amendment Regulations 2002 (SR 2002/89).

Miscellaneous provisions

18 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 2000/223 r 13

19 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.

Compare: SR 2000/223 r 14

20 Customs and Excise Act 1996 not affected

These regulations do not affect the operation of the Customs and Excise Act 1996.

Compare: SR 2000/223 r 15

20A United Nations Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2001 not affected

[Revoked]

Regulation 20A was inserted, as from 1 December 2001, by regulation 5 United Nations Sanctions (Afghanistan) Amendment Regulations 2001 (SR 2001/352).

Regulation 20A was revoked, as from 18 October 2002, by section 74(2) Terrorism Suppression Act 2002 (2002 No 34).

21 Revocation

The United Nations Sanctions (Afghanistan) Regulations 1999 (SR 1999/415) are revoked.

Diane Wilderspin,

Acting 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 16 March 2001, revoke and replace the United Nations Sanctions (Afghanistan) Regulations 1999.

These regulations—

- continue the existing sanctions (imposed under resolution 1267 (1999) of the Security Council of the United Nations, adopted on 15 October 1999) in place in respect of the Taliban (a militarised political grouping in control of large areas of Afghanistan); and
- give effect to resolution 1333 (2000) of the Security Council of the United Nations, adopted on 19 December 2000, imposing additional sanctions in respect of the Taliban for non-compli-

ance with previous Security Council resolutions and violations of international law.

The additional sanctions require a number of additional provisions.

A number of the additional provisions relate to the following goods (the goods):

- acetic anhydride, a chemical used to convert morphine—an extract from the dried milky exudate of the unripe seed capsules of opium poppies (*Papaver somniferum*)—into heroin, the production, sale, or use of which is often illicit; and
- arms, which include not only related materiel of all types—for example, weapons, ammunition, military vehicles and equipment, and paramilitary equipment—but also spare parts for any arms, or for any related materiel).

The additional provisions—

- prohibit the exportation of the goods from New Zealand to any area within Afghanistan that, in accordance with Security Council resolutions, is designated as being controlled by the Taliban (a Taliban-controlled area); and
- prohibit any person who is in New Zealand or is a New Zealand citizen outside New Zealand—
 - from entering into or being concerned in any transaction involving the sale, transfer, carriage, or delivery of, or other dealing with, the goods, if the person knows that the goods are destined for a Taliban-controlled area; and
 - from providing to, or at the request of, any person in a Taliban-controlled area any technical assistance or training relating to the provision, manufacture, maintenance, or use of, any arms; and
- prohibit the carriage of the goods on any New Zealand ship, New Zealand aircraft, or ship or aircraft chartered by a New Zealand citizen or by a body incorporated or constituted under the law of New Zealand, if the carriage is, or forms part of, carriage from any place outside a Taliban-controlled area to any destination in a Taliban-controlled area; and
- prohibit any aircraft from landing in, taking-off from, or flying over, New Zealand if it commenced its journey, or will land in, or has during the course of its journey landed in, a Taliban-controlled area; and

- prohibit any person from establishing or maintaining, in New Zealand, an office for, on behalf of, or for the purpose of promoting the interests of, the Taliban or a Taliban entity (such as Ariana Afghan Airlines); and
- freeze funds and other financial resources owned or controlled by Taliban entities (such as Usama bin Laden, and individuals or entities associated with the Al-Qaida organization). The freeze extends to funds derived or generated from such funds; and
- ensure that Taliban entities are denied the benefit of those funds and resources, or any other funds or resources.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 15 March 2001.

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Notes

1 *General*

This is an eprint of the United Nations Sanctions (Afghanistan) Regulations 2001. It incorporates all the amendments to the United Nations Sanctions (Afghanistan) Regulations 2001 as at 23 November 2007. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

3 *List of amendments incorporated in this eprint (most recent first)*

United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 (SR 2007/356): regulation 17
