



# **Charter of the United Nations (Terrorism and Dealings with Assets) Regulations 2002**

**Statutory Rules 2002 No. 314 as amended**

made under the

*Charter of the United Nations Act 1945*

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This compilation was prepared on 2 July 2003  
taking into account amendments up to SR 2003 No. 168

Prepared by the Office of Legislative Drafting,  
Attorney-General's Department, Canberra

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## Part 1 Preliminary

### 1 Name of Regulations [see Note 1]

These Regulations are the *Charter of the United Nations (Terrorism and Dealings with Assets) Regulations 2002*.

### 2 Commencement [see Note 1]

These Regulations commence on the commencement of Schedule 3 to the *Suppression of the Financing of Terrorism Act 2002*.

### 3 ***Charter of the United Nations (Anti-terrorism Measures) Regulations 2001 — repeal***

Statutory Rules 2001 No. 297 is repealed.

### 4 Transitional

- (1) A person who, or an entity that, was a proscribed person or entity under the *Charter of the United Nations (Anti-terrorism Measures) Regulations 2001* immediately before the repeal effected by regulation 3 is taken, on commencement of these Regulations, to have been listed under section 15 of the *Charter of the United Nations Act 1945*.
- (2) An asset, or class of asset, that was listed under subregulation 7 (3) of the *Charter of the United Nations (Anti-terrorism Measures) Regulations 2001* immediately before the repeal effected by regulation 3 is taken, on commencement of these Regulations, to be a listed asset.

### 5 Definitions

In these Regulations:

**Act** means the *Charter of the United Nations Act 1945*.

**AFP** means the Australian Federal Police constituted by section 6 of the *Australian Federal Police Act 1979*.

**Regulation 5**

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*asset* has the meaning given by section 14 of the Act.

*Committee* means the Committee established under paragraph 6 of Resolution 1267.

*freezable asset* has the meaning given by section 14 of the Act.

*listed asset* has the meaning given by section 14 of the Act.

*proscribed person or entity* has the meaning given by section 14 of the Act.

*Resolution 1267* means Resolution 1267 (1999) of the Security Council of the United Nations.

*Resolution 1333* means Resolution 1333 (2000) of the Security Council of the United Nations.

*Resolution 1373* means Resolution 1373 (2001) of the Security Council of the United Nations.

*Resolution 1390* means Resolution 1390 (2002) of the Security Council of the United Nations.

## Part 2                      **Grounds for listing persons, entities or assets**

### **6                      Listing for Resolution 1373**

- (1) For subsection 15 (2) of the Act, the Minister must list a person or entity if the Minister is satisfied that the person or entity is a person or entity mentioned in paragraph 1 (c) of Resolution 1373.
- (2) For subsection 15 (4) of the Act, the Minister may list an asset, or class of asset, if the Minister is satisfied that the asset, or class of asset, is owned or controlled by a person or entity mentioned in paragraph 1 (c) of Resolution 1373.

*Note* Paragraph 1 (c) of Resolution 1373 requires States to:

‘Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;’.

**Regulation 6A**

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**Part 3                      Proscription under section 18  
of the Act****6A            Proscribed person or entity**

- (1) For subsection 18 (1) of the Act, the following are proscribed persons or entities:
- (a) the Taliban;
  - (b) Usama bin Laden;
  - (c) a member of the Al-Qaida organisation;
  - (d) a person or entity named in the list of the Committee, as in existence from time to time.

*Note* Paragraph 4 (b) of Resolution 1267, paragraph 8 (c) of Resolution 1333 and paragraph 2 of Resolution 1390 require States to freeze the assets of the persons mentioned in this regulation, and of entities directly or indirectly controlled by them.

- (2) In this regulation:

*list of the Committee* means the list of individuals, groups, undertakings and entities associated with a person or entity mentioned in paragraph (1) (a), (b) or (c) that is maintained by the Committee in accordance with paragraph 2 of Resolution 1390.

## **Part 4                      Miscellaneous**

### **7                      Advance notice of listing of persons, entities and assets**

- (1) The Department may give notice of decisions of the Minister to list a person or entity, or an asset or class of asset, under section 15 of the Act to any person who is engaged in the business of holding, dealing in, or facilitating dealing in, assets.
- (2) The notice may be given before notice of the listing that is the subject of the decisions is published in the *Gazette*.

### **8                      Consolidated list of proscribed persons and entities**

- (1) The Department must keep a document that sets out:
  - (a) all persons and entities that are proscribed persons or entities; and
  - (b) all assets or classes of assets currently listed under section 15.
- (2) The Department must ensure that an electronic version of the document is made available to the public on the internet.

### **9                      Request to AFP for help**

- (1) A person who holds an asset that the person suspects is, or may be, a freezable asset may request the AFP to help the person determine whether or not the asset is owned or controlled by a proscribed person or entity.
- (2) The request must be accompanied by details of the asset, and as much information about the asset (including information about the owner or controller of the asset) as is known to the person making the request.
- (3) The AFP must use its best endeavours to help a person who has made a request under subregulation (1).

**Regulation 10**

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- (4) As soon as practicable after the making of a request under subregulation (1), the AFP must respond in writing.
- (5) The response must state whether the AFP considers that:
  - (a) it is likely that the asset is owned or controlled by a proscribed person or entity; or
  - (b) it is unlikely that the asset is owned or controlled by a proscribed person or entity; or
  - (c) it is unknown whether the asset is owned or controlled by a proscribed person or entity.

*Note* These Regulations do not limit the obligation of a cash dealer under section 16 of the *Financial Transaction Reports Act 1988* to report a suspicious transaction.

**10 Notification**

- (1) This regulation sets out what a person who is holding an asset must do if the person forms an opinion (a *notifiable opinion*) that:
  - (a) the asset is a freezable asset; or
  - (b) the asset, having been a freezable asset, or having been previously treated by the person as a freezable asset, is not, or is no longer, a freezable asset.
- (2) However, an opinion that an asset is not, or is no longer, a freezable asset is not a notifiable opinion if the asset has ceased to appear in the document mentioned in subregulation 8 (1) because:
  - (a) the asset is no longer a listed asset; or
  - (b) the owner or controller of the asset is no longer a proscribed person or entity.
- (3) As soon as practicable after a person forms a notifiable opinion, the person must inform the AFP of:
  - (a) the asset about which the opinion was formed; and
  - (b) as much information about the asset (including information about the owner or controller of the asset) as is known to the person; and
  - (c) the reasons for the opinion.



**Regulation 12**

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**11 Protection of information**

- (1) This regulation applies to a person who, at the time that something is done under the Act or these Regulations (a *relevant action*), is:
- (a) the Minister; or
  - (b) the Secretary of the Department; or
  - (c) an officer of the Commonwealth; or
  - (d) an AFP employee, or a member of the Australian Federal Police, within the meaning of the *Australian Federal Police Act 1979*; or
  - (e) a person who holds a freezable asset or an asset that the person suspects may be a freezable asset; or
  - (f) a person employed by a person mentioned in paragraph (e).
- (2) A person to whom this regulation applies is not required:
- (a) to produce in a court any document that has come into the custody or control of the person in the course of, or because of, the relevant action; or
  - (b) to divulge or communicate to a court any matter or thing that has come to the notice of the person in the course of, or because of, the relevant action;

unless it is necessary to do so to carry into effect the provisions of the Act or these Regulations.

**12 Indemnity**

A person (including the Commonwealth) is not liable to an action, suit or proceeding for anything done or omitted to be done in good faith and without negligence under regulation 9 or 10.

*Note* Section 24 of the Act is an indemnity for anything done or omitted to be done in compliance or purported compliance with the Act.

**Table of Statutory Rules**

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**Notes to the *Charter of the United Nations (Terrorism and Dealings with Assets) Regulations 2002***

**Note 1**

The *Charter of the United Nations (Terrorism and Dealings with Assets) Regulations 2002* (in force under the *Charter of the United Nations Act 1945*) as shown in this compilation comprise Statutory Rules 2002 No. 314 amended as indicated in the Tables below.

**Table of Statutory Rules**

<b>Year and number</b>	<b>Date of notification in <i>Gazette</i></b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
2002 No. 314	13 Dec 2002	13 Dec 2002 (see r. 2 and <i>Gazette</i> 2002, No. S471)	
2003 No. 168	2 July 2003	2 July 2003	—

**Table of Amendments**

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**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
Heading to Part 1.....	ad. 2003 No. 168
R. 5 .....	am. 2003 No. 168
<b>Part 2</b>	
Heading to Part 2.....	ad. 2003 No. 168
Heading to r. 6 .....	rs. 2003 No. 168
<b>Part 3</b>	
Heading to Part 3.....	ad. 2003 No. 168
R. 6A.....	ad. 2003 No. 168
<b>Part 4</b>	
Heading to Part 4.....	ad. 2003 No. 168

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