



UNITED NATIONS SANCTIONS (TERRORISM SUPPRESSION AND AFGHANISTAN MEASURES) REGULATIONS 2004

Arrangement of provisions

Provision number		Page number
1	Title.....	1
2	Commencement.....	1
<i>Preliminary Provisions</i>		
3	Interpretation.....	1
4	Application.....	2
<i>Prohibition on Collecting or Providing Funds</i>		
5	Collecting or providing funds for specified entities.....	3
<i>Prohibition on Dealing with Property</i>		
6	Dealing with property of, or derived or generated from property of, specified entities.....	3
<i>Duty to Report Suspicions Relating to Property</i>		
7	Property suspected to be owned or controlled by specified entities to be reported.....	3
<i>Prohibition on Making Available Property and Certain Services</i>		
8	Making property, or financial or other related services, available to specified entities.....	4
<i>Authorised Activities or Transactions</i>		
9	Minister of Finance may authorise activities or transactions.....	4
<i>Prohibitions on Recruitment and Participation</i>		
10	Recruiting members of specified groups.....	5
11	Participating in specified groups.....	5
<i>Miscellaneous Provisions</i>		
12	Protection of persons.....	5
13	Offences.....	6
14	Minister's consent required for prosecutions.....	6
Schedule—Specified Entities		

**UNITED NATIONS SANCTIONS (TERRORISM SUPPRESSION AND
AFGHANISTAN MEASURES) REGULATIONS 2004**

Pursuant to section 2(1) of the United Nations Act 1946 (New Zealand), as substituted by section 2 of the United Nations Amendment Act 2001 (Niue), the Cabinet, acting 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, and calling upon the Government of New Zealand and all other member States of the United Nations to apply the measures set out in the following resolutions,—

- (a) resolution 1284 (1999), of 15 October 1999; and
 - (b) resolution 1333 (2000), of 12 December 2000; and
 - (c) resolution 1373 (2001), of 28 September 2001,—
- make the following Regulations:

1 Title

- (1) These regulations may be cited as the United Nations Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2004.

2 Commencement

- (1) These regulations are deemed to have entered into force on 23 September 2003.

Preliminary Provisions

3 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 6 or regulation 8 of these regulations 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,

UN Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2004

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.

"property"—

- (a) means real or personal property of any description, whether situated in Niue 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 4(1) of these regulations.

"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 6 or regulation 8 of these regulations 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 External Affairs may publish, in any manner that he or she 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) of this subclause.

Application

- (1) These regulations apply in respect of the entities referred to in column 1 of the table in the Schedule of these regulations, 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

5 Collecting or providing funds for specified entities

- (1) No person 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) of this regulation, 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

6 Dealing with property of, or derived or generated from property of, specified entities

- (1) No person 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) of this subclause.
- (2) Subclause (1) of this regulation does not apply if the Minister of Finance has, under regulation 9 of these regulations, 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.

Duty to Report Suspicions Relating to Property

7 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 an officer of police.

Prohibition on Making Available Property and Certain Services

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

- (1) No person 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) of this regulation, is where the property the person made available is items of food, clothing, or medicine, that are necessities of life.
- (3) Subclause (1) of this regulation does not apply if the Minister of Finance has, under regulation 9 of these regulations, 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).

Authorised Activities or Transactions

9. **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 6 or regulation 8 of these regulations.
- (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, another person involved in carrying out the activity or transaction or class or classes of activities or transactions to which the authorisation relates is not subject to regulation 6 or regulation 8 of these regulations.
- (4) However, subclause (3) of this regulation does not apply if—
 - (a) the authorisation is subject to terms or conditions imposed under subclause (2)(a) of this regulation; and
 - (b) those terms or conditions are not satisfied.

Prohibitions on Recruitment and Participation

- 10 **Recruiting members of specified groups**
(1) No person may recruit another person as a member of a group or organisation, knowing that the group or organisation is a specified entity.
- 11 **Participating in specified groups**
(1) No person may participate in a group or organisation, knowing that the group or organisation is a specified entity.

Miscellaneous Provisions

- 12 **Protection of persons**
(1) A person has immunity from civil, criminal, or disciplinary proceedings to the extent provided in subclauses (2) and (3) of this regulation if the person—
(a) acts in purported compliance with the requirements of any of regulations 6 and 8 of these regulations; or
(b) reports a suspicion to an officer of police under regulation 7(1) of these regulations; 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) of this regulation applies—
(a) in respect of the acts of the person in good faith and with reasonable care in purported compliance with the requirements of any of regulations 6 and 8 of these regulations; 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) of this regulation; or
(c) for any consequences that follow from the report or disclosure of that information.
- (3) However, subclause (2)(b) and (c) of this regulation does 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.

UN Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2004

13 Offences

- (1) 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.

14 Minister'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 Minister of External Affairs.
- (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 Minister's consent under subclause (1) of this regulation has not been obtained.

Regulation 4(1)

Schedule

Specified Entities

Entity	Provisions that apply to the entity
Every Al-Qaida entity*	Every provision of these regulations
The Taliban*	Every provision of these regulations
Every Taliban entity*	Every provision of these regulations
Usama bin Laden	Every provision of these regulations, except regulations 10 and 11 of these regulations

*As defined in regulation 3(1) of these regulations.