

Proactive Release

Date: 23 April 2019

The following Cabinet paper, attachments and related minutes have been proactively released by the Minister of Foreign Affairs:

Titles of papers:

United Nations Sanctions Amendment Regulations: South Sudan, and Isil (Da'esh), Al-Qaida and Taliban (LEG-19-SUB-0022 refers)

United Nations Sanctions (South Sudan) Amendment Regulations

United Nations Sanctions (Isil (Da'esh), Al-Qaida and Taliban) Amendment Regulations

Title of minute:

United Nations Sanctions Amendment Regulations: South Sudan, and ISIL (Da'esh), Al-Qaida and Taliban (LEG-19-MIN-0022 refers)



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

United Nations Sanctions Amendment Regulations: South Sudan, and ISIL (Da'esh), Al-Qaida and Taliban

Portfolio **Foreign Affairs**

On 5 March 2019, the Cabinet Legislation Committee:

- 1 **noted** that New Zealand has implemented United Nations Security Council (UNSC) sanctions in relation to South Sudan through the United Nations Sanctions (South Sudan) Regulations 2015;
- 2 **noted** that the UNSC has since adopted resolution 2428 (2018), which imposes an arms embargo on South Sudan;
- 3 **noted** that New Zealand is legally obliged under the United Nations Charter to give effect to decisions of the United Nations Security Council in domestic law;
- 4 **noted** that the draft United Nations Sanctions (South Sudan) Amendment Regulations 2019 will amend the existing regulations and bring New Zealand into line with our current obligations at international law;
- 5 **noted** that New Zealand has implemented UNSC sanctions in relation to Al-Qaida and the Taliban through the United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 and the Terrorism Suppression Act 2002;
- 6 **noted** that the UNSC has since adopted resolutions splitting the sanctions regime into two separate regimes and updating the Al-Qaida sanctions listing criteria to specifically include individuals and entities associated with ISIL (Da'esh);
- 7 **noted** that the draft United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019 will amend the existing regulations to reflect this split and clarify their application to ISIL (Da'esh);
- 8 **authorised** the submission to the Executive Council of the:
 - 8.1 United Nations Sanctions (South Sudan) Amendment Regulations 2019 [PCO 21616/3.0];
 - 8.2 United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019 [PCO 21617/4.0];

- 9 **noted** that the United Nations Sanctions (South Sudan) Amendment Regulations 2019 and the United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019 come into force on 11 April 2019.

Vivien Meek
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Andrew Little (Chair)
Hon Stuart Nash
Hon Damien O'Connor
Hon Tracey Martin
Hon Kris Faafoi
Hon Eugenie Sage
Hon Ruth Dyson (Senior Government Whip)

Officials present from:

Officials Committee for LEG

Hard-copy distribution:

Minister of Foreign Affairs

Proactively Released by
the Minister of Foreign Affairs

UNITED NATIONS SANCTIONS AMENDMENT REGULATIONS: SOUTH SUDAN, AND ISIL (DA'ESH), AL-QAIDA AND TALIBAN

Proposal

1. This paper seeks authorisation for submission to the Executive Council of the:
 - 1.1. United Nations Sanctions (South Sudan) Amendment Regulations 2019, and
 - 1.2. United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019.

Policy

Background

2. Chapter VII of the United Nations (UN) Charter provides the framework through which the UN Security Council (UNSC) may act in response to threats to peace, breaches of the peace and acts of aggression. Article 41 of the Charter authorises the UNSC to employ measures, not involving the use of force, to give effect to its decisions on maintaining or restoring international peace and security. It may call upon UN Member States to give effect to these measures and Member States, including New Zealand, are obliged to do so under international law.
3. The United Nations Act 1946 empowers the Governor-General to make regulations to give effect to measures adopted by the Security Council under Article 41 of the Charter, including the imposition of sanctions.
4. The proposed regulations are routine and do not require a new policy decision as they implement New Zealand's international obligations. No separate Cabinet or Cabinet Committee decision has been sought.

South Sudan

5. UNSC sanctions measures have been in place in relation to South Sudan since 2015. New Zealand implements these through the United Nations Sanctions (South Sudan) Regulations 2015 (the South Sudan regulations). The initial sanctions imposed a travel ban and asset freeze against individuals and entities designated by the UNSC.
6. On 9 July 2018, the UNSC adopted resolution 2428, which renewed the existing sanctions measures and imposed an arms embargo on South Sudan. The arms embargo is aimed at stopping the flow of weapons to armed groups in South Sudan and supporting a ceasefire agreement signed on 27 June 2018 between the government and opposition forces.

7. To implement the arms embargo in New Zealand, the South Sudan regulations require amendment. The draft United Nations Sanctions (South Sudan) Amendment Regulations 2019 will amend the existing regulations to prohibit:
 - 7.1. the export of arms, directly or indirectly, to South Sudan (including specific exceptions);
 - 7.2. the carriage of arms to South Sudan;
 - 7.3. dealing with arms intended for South Sudan; and
 - 7.4. providing assistance or training relating to arms or military activities.

ISIL (Da'esh), Al-Qaida and Taliban

8. Sanctions measures were first imposed against Al-Qaida and the Taliban by resolution 1267 in 1999. These include an arms embargo, asset freeze and travels bans in relation to listed individuals and entities. Over time, the sanctions regime has evolved.
9. In 2011, the UNSC split this sanctions regime into two separate regimes through the adoption of resolutions 1988 (the Taliban sanctions) and 1989 (Al-Qaida). In 2015, the UNSC adopted resolution 2253, which expanded the listing criteria for the Al-Qaida sanctions regime to include individuals and entities supporting ISIL (Da'esh).
10. The sanctions measures introduced by resolution 1267 (1999) are currently partly implemented in New Zealand through the United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 (the Al-Qaida and Taliban regulations). The Al-Qaida and Taliban regulations provide for the arms embargo and travel ban against individuals and entities designated under the Al-Qaida and Taliban sanctions resolutions.
11. The original 1267 sanctions are also partly implemented through the Terrorism Suppression Act 2002 (TSA), which includes provisions requiring the assets of individuals and entities listed under the Al-Qaida and Taliban sanctions resolutions to be frozen.
12. Neither the Al-Qaida and Taliban regulations nor the TSA have been updated to reflect the fact that the sanctions measures were split in two separate regimes in 2011 or to reflect the decision to explicitly incorporate ISIL (Da'esh) into the Al-Qaida sanctions regime.
13. The current regulations are currently interpreted to include ISIL (Da'esh) but it is proposed that this be clarified. The draft United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019 will amend the Al-Qaida and Taliban regulations to specifically reference ISIL (Da'esh). The amendment regulations also include some minor changes to update the exceptions to the sanctions measures, which have been introduced through subsequent resolutions.

Timing and 28-day rule

14. The United Nations Sanctions (South Sudan) Amendment Regulations 2019 and United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019 will come into force 28 days after being notified in the Gazette.

Compliance

15. The regulations comply with all of the following:

15.1. the principles of the Treaty of Waitangi;

15.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;

15.3. the principles and guidelines set out in the Privacy Act 1993 (if the regulations raise privacy issues, indicate whether the Privacy Commissioner agrees that they comply with all relevant principles);

15.4. relevant international standards and obligations;

15.5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

16. It is not considered there are grounds for the Regulations Review Committee to draw the regulations to the attention of the House under Standing Order 319.

Certification by Parliamentary Counsel

17. The Parliamentary Counsel Office has certified the regulations as in order for submission to Cabinet.

Impact Analysis

18. A Regulatory Impact Assessment is not required because the regulations are essential to comply with New Zealand's international obligations.

Publicity

19. Information about the amended regulations will be published on the website of the Ministry of Foreign Affairs and Trade and other relevant government agencies.

Proactive release

20. I intend to proactively release this paper in full within 30 days of Cabinet's decision.

Consultation

21. This paper has been consulted with the New Zealand Customs Service, Ministry of Business, Innovation and Employment, New Zealand Police, and the Ministry of Justice.

Recommendations

22. I recommend that the Cabinet Legislation Committee:
 1. **note** that New Zealand has implemented United Nations Security Council (UNSC) sanctions in relation to South Sudan through the United Nations Sanctions (South Sudan) Regulations 2015;
 2. **note** that the UNSC has since adopted resolution 2428 (2018), which imposes an arms embargo on South Sudan;
 3. **note** that New Zealand is legally obliged under the United Nations Charter to give effect to decisions of the United Nations Security Council in domestic law;
 4. **note** that the draft United Nations Sanctions (South Sudan) Amendment Regulations 2019 will amend the existing regulations and bring New Zealand into line with our current obligations at international law;
 5. **note** that New Zealand has implemented UNSC sanctions in relation to Al-Qaida and the Taliban through the United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 and the Terrorism Suppression Act 2002;
 6. **note** that the UNSC has since adopted resolutions splitting the sanctions regime into two separate regimes and updating the Al-Qaida sanctions listing criteria to specifically include individuals and entities associated with ISIL (Da'esh);
 7. **note** that the draft United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019 will amend the existing regulations to reflect this split and clarify their application to ISIL (Da'esh);
 8. **authorise** the submission to the Executive Council of the United Nations Sanctions (South Sudan) Amendment Regulations 2019 and the United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019;
 9. **note** that the United Nations Sanctions (South Sudan) Amendment Regulations 2019 and the United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019 come into force 28 days after notification in the *Gazette*.

Authorised for lodgement

Rt Hon Winston Peters

Minister of Foreign Affairs

Reprint
as at 1 October 2018



**United Nations Sanctions (Al-Qaida and Taliban)
Regulations 2007**
(SR 2007/356)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 19th day of November 2007

Present:

His Excellency the Governor-General in Council

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 (in part) to resolutions 1267 (1999), 1333 (2000), and 1390 (2002) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 15 October 1999, 19 December 2000, and 16 January 2002 respectively, calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of Al-Qaida and the Taliban the measures set out in those resolutions,—

makes the following regulations.

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

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

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Regulations

- 1 Title**

These regulations are the United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007.
- 2 Commencement**

These regulations come into force on 23 November 2007.

3 Interpretation

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

Al-Qaida means the Al-Qaida organisation

Al-Qaida and the Taliban Sanctions Resolutions means resolutions of the Security Council of the United Nations and relating to Al-Qaida or the Taliban

Al-Qaida entity, for a measure that is set out, or referred to, in 1 or more Al-Qaida and the Taliban Sanctions Resolutions, and that is provided for in these regulations, means Al-Qaida, or an entity that is not Al-Qaida but is designated, by or under those resolutions, as an entity that is—

- (a) associated with Usama bin Laden; and
- (b) an entity to which that measure is to be applied

arms includes—

- (a) related *matériel* 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** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

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

Minister means the Minister of Foreign Affairs

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 Council means the Security Council of the United Nations

specified entity means an entity that is—

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

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

Taliban entity, for a measure that is set out, or referred to, in 1 or more Al-Qaida and the Taliban Sanctions Resolutions, and that is provided for in these regulations, means an entity that—

- (a) is not Usama bin Laden, an Al-Qaida entity, or the Taliban; but
 - (b) is designated, by or under those resolutions, as an entity to which that measure is to be applied.
- (2) The Minister may publish a list of the names or other identifying details of any entities that are for the time being Al-Qaida entities or Taliban entities for a measure that is—
- (a) set out, or referred to, in 1 or more Al-Qaida and the Taliban Sanctions Resolutions; and
 - (b) provided for in these regulations, the Terrorism Suppression Act 2002, or any other enactment.
- (3) The list may be published by notice in the *Gazette*, by using the Internet, or by any other means the Minister thinks fit.

Compare: SR 2001/26 r 3

Regulation 3(1) **Customs** or **the Customs**: inserted, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

Regulation 3(1) **Customs** or **the Customs** and **Customs officer**: revoked, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

Regulation 3(1) **Customs officer**: inserted, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

Export of arms to specified entity 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 has consented to that exportation of those goods.

Compare: SR 2001/26 r 4

5 Customs and Excise Act 2018 to apply to prohibited exports

All provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to goods whose exportation is prohibited by regulation 4 as if the exportation of the goods were prohibited under section 96 of that Act.

Regulation 5: replaced, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

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 2001/26 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 2001/26 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 2001/26 r 8

Transactions in relation to dealing in arms with specified entity 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 has consented to that sale, transfer, carriage, or delivery of, or other dealing with, those goods.

Compare: SR 2001/26 r 9

Carriage of arms to specified entity 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 has consented to that carriage of the goods under regulation 4(2) or 9(2).

(3) **Ship or aircraft**, in subclause (1), 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—
 - (i) any New Zealand citizen; or
 - (ii) 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 2001/26 r 10

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 may be, 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) **Owner** and **charterer**, in this regulation and in relation to a ship, include any person acting as the agent of the owner or, as the case may be, the agent of the charterer.
Compare: SR 2001/26 r 11

Provision to specified entity 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 has consented to that provision of the assistance or training.
Compare: SR 2001/26 r 12

Entry of certain persons into New Zealand

13 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 visa may be granted under the Immigration Act 2009 to a person who is a specified entity only on the advice of the Secretary of Foreign Affairs and Trade that the visa is consistent with subclause (1).
- (3) This regulation operates in addition to the requirements of the Immigration Act 2009 and any regulations made under that Act.

Compare: SR 2001/26 r 12A

Regulation 13(2): substituted, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

Regulation 13(3): substituted, at 2 am on 29 November 2010, by section 406(2) of the Immigration Act 2009 (2009 No 51).

Miscellaneous provisions

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 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 2001/26 r 19

16 Customs and Excise Act 2018 not affected

These regulations do not affect the operation of the Customs and Excise Act 2018.

Regulation 16: replaced, on 1 October 2018, by section 443(4) of the Customs and Excise Act 2018 (2018 No 4).

17 Revocation

The United Nations Sanctions (Afghanistan) Regulations 2001 (SR 2001/26) are revoked.

Rebecca Kitteridge,
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 22 November 2007.

Proactively Released by
the Minister of Foreign Affairs

Reprints notes

1 *General*

This is a reprint of the United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Customs and Excise Act 2018 (2018 No 4): section 443(4)

Immigration Act 2009 (2009 No 51): section 406(2)

IN CONFIDENCE

United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019

Governor-General

Order in Council

At Wellington this day of 2019

Present:
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 the following resolutions of the Security Council of the United Nations adopted under the United Nations Charter:
 - resolution 1988 (2011), adopted on 17 June 2011:
 - resolution 1989 (2011), adopted on 17 June 2011:
 - resolution 2253 (2015), adopted on 17 December 2015:
 - resolution 2255 (2015), adopted on 21 December 2015.

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**United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and
Taliban) Amendment Regulations 2019**

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Regulations

1 Title

These regulations are the United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019.

2 Commencement

These regulations come into force on 11 April 2019.

3 Principal regulations

These regulations amend the regulations that were previously called the United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 (the **principal regulations**).

4 Enacting statement amended

In the enacting statement, replace paragraph (b) with:

- (b) for the purpose of giving effect (in part) to the following resolutions of the Security Council of the United Nations adopted under the United Nations Charter:
- (i) resolution 1267 (1999), adopted on 15 October 1999:
 - (ii) resolution 1333 (2000), adopted on 19 December 2000:
 - (iii) resolution 1390 (2002), adopted on 16 January 2002:
 - (iv) resolution 1988 (2011), adopted on 17 June 2011:
 - (v) resolution 1989 (2011), adopted on 17 June 2011:
 - (vi) resolution 2253 (2015), adopted on 17 December 2015:
 - (vii) resolution 2255 (2015), adopted on 21 December 2015,—

5 Title of principal regulations changed

In regulation 1, replace “United Nations Sanctions (Al-Qaida and Taliban)” with “United Nations Sanctions (ISIL (Da’esh), Al-Qaida, and Taliban)”.

6 Regulation 3 amended (Interpretation)

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

1988 Committee means the committee established under paragraph 30 of resolution 1988 (2011) of the Security Council, adopted under the United Nations Charter on 17 June 2011

ISIL (Da’esh) means the splinter group of Al-Qaida known as the Islamic State in Iraq and the Levant (ISIL), also known as the Islamic State in Iraq and al Sham (ISIS), and also known as Da’esh

ISIL (Da’esh) and Al-Qaida sanctions committee means the committee established under paragraph 6 of resolution 1267 (1999) of the Security Council, adopted under the United Nations Charter on 15 October 1999

ISIL (Da’esh), Al-Qaida, and the Taliban Resolutions means resolutions of the Security Council relating to ISIL (Da’esh), Al-Qaida, or the Taliban

- (2) In regulation 3(1), revoke the definition of **Al-Qaida and the Taliban Sanctions Resolutions**.
- (3) In regulation 3(1), replace the definition of **Al-Qaida entity** with:

Al-Qaida entity, for a measure that is set out or referred to in 1 or more ISIL (Da’esh), Al-Qaida, and the Taliban Resolutions, and that is provided for in these regulations, means—

- (a) Al-Qaida; or
- (b) ISIL (Da’esh); or
- (c) an entity that is not Al-Qaida or ISIL (Da’esh) but is designated by or under those resolutions as an entity—
 - (i) that is associated with Al-Qaida or ISIL (Da’esh); and
 - (ii) to which that measure is to be applied

- (4) In regulation 3(1), definition of **specified entity**, revoke paragraph (a).

- (5) In regulation 3(1), definition of **Taliban entity**,—

- (a) replace “Al-Qaida and the Taliban Sanctions Resolutions” with “ISIL (Da’esh), Al-Qaida, and the Taliban Resolutions”; and
- (b) replace “Usama bin Laden, an Al-Qaida entity,” with “an Al-Qaida entity”.

- (6) In regulation 3(2)(a), replace “Al-Qaida and the Taliban Sanctions Resolutions” with “ISIL (Da’esh), Al-Qaida, and the Taliban Resolutions”.

7 New regulation 3A inserted (Transitional, savings, and related provisions)

After regulation 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

8 Cross-heading above regulation 12 amended

In the cross-heading above regulation 12, replace “*technical assistance or training relating to arms*” with “*technical advice, assistance, or training relating to military activities*”.

9 Regulation 12 amended (Provision to area controlled by specified entity of technical assistance or training relating to arms prohibited)

- (1) In the heading to regulation 12, replace “**technical assistance or training relating to arms**” with “**technical advice, assistance, or training relating to military activities**”.
- (2) In regulation 12(1), replace “technical assistance or training relating to the provision, manufacture, maintenance, or use of any arms” with “technical advice, assistance, or training relating to military activities”.
- (3) In regulation 12(2), replace “assistance or training” with “advice, assistance, or training”.

10 Regulation 13 amended (Entry of certain persons into New Zealand)

- (1) After regulation 13(1), insert:
 - (1A) Subclause (1) does not apply so as to prevent a person from entering or transiting through New Zealand if—
 - (a) the entry or transit is necessary for the fulfilment of a judicial process; or
 - (b) the 1988 Committee or the ISIL (Da'esh) and Al-Qaida sanctions committee has determined on a case-by-case basis that the entry or transit is justified.
 - (1B) Subclause (1) does not apply to a specified entity who is a New Zealand citizen.
- (2) In regulation 13(2), replace “subclause (1)” with “subclauses (1) to (1B)”.

11 New Schedule 1 inserted

Insert the Schedule 1 set out in the Schedule of these regulations as the first schedule to appear after the last regulation of the principal regulations.

Schedule
New Schedule 1 inserted

r 11

Schedule 1
Transitional, savings, and related provisions

r 3A

Part 1
Provision relating to United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Amendment Regulations 2019

1 References to previous Title

Every reference in any enactment and in any document to the United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 must, unless the context otherwise provides, be read as a reference to the United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Regulations 2007.

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 amend and rename the United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 (the **principal regulations**). These regulations come into force on 11 April 2019.

These regulations give effect (in part) to the following United Nations Security Council resolutions:

- 1988 (2011), adopted under the United Nations Charter on 17 June 2011 (**resolution 1988**):
- 1989 (2011), adopted under the United Nations Charter on 17 June 2011 (**resolution 1989**):
- 2253 (2015), adopted under the United Nations Charter on 17 December 2015 (**resolution 2253**):
- 2255 (2015), adopted under the United Nations Charter on 21 December 2015 (**resolution 2255**).

Resolution 2253 extended the sanctions set out in the earlier resolutions to the Al-Qaida splinter group known as the Islamic State in Iraq and the Levant (**ISIL**

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(Da'esh)). *Regulation 5* amends the title of the principal regulations, and *regulation 6* amends various definitions in the principal regulations to reflect the fact that the sanctions now apply to ISIL (Da'esh).

Resolution 2253 and resolution 2255 amended the sanction prohibiting New Zealanders from providing technical advice, assistance, or training related to military activities. *Regulation 9* amends regulation 12 of the principal regulations to reflect this change.

Resolution 1988 and resolution 1989 created an exception to the travel ban sanction, allowing entry into New Zealand or transit through New Zealand when entry or transit is necessary for the fulfilment of a judicial process or where the committee responsible for the administration of the relevant resolutions determines that entry or transit is justified. *Regulation 10* amends regulation 13 of the principal regulations to provide for that exception.

Resolution 1988 and resolution 1989 also provided that the travel ban sanction did not oblige a State to deny entry or require departure of any of its nationals. *Regulation 10* amends regulation 13 of the principal regulations to provide for that exception.

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