

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

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*(As read a first time)*

**CHARTER OF THE UNITED NATIONS AMENDMENT  
BILL 1993**

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1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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*(Presented and read a first time, 6 May 1993)*

(MINISTER FOR FOREIGN AFFAIRS, SENATOR EVANS)

## A BILL

FOR

**An Act to amend the *Charter of the United Nations Act 1945***

The Parliament of Australia enacts:

### **Short title etc.**

1.(1) This Act may be cited as the *Charter of the United Nations Amendment Act 1993*.

5 (2) In this Act, "**Principal Act**" means the *Charter of the United Nations Act 1945*<sup>1</sup>.

### **Commencement**

2. This Act commences on the day on which it receives the Royal Assent.

### **Title**

10 3. The title of the Principal Act is repealed and the following title is substituted:

**“An Act to approve the Charter of the United Nations, and to enable Australia to apply sanctions giving effect to certain decisions of the Security Council”.**

**Repeal of preamble**

4. The preamble to the Principal Act is repealed. 5

**Insertion of heading**

5. Before section 1 of the Principal Act the following heading is inserted:

**“PART 1—PRELIMINARY”.**

6. Section 3 of the Principal Act is repealed and the following sections and Parts are substituted: 10

**Extension to external Territories**

- “3. This Act extends to every external Territory.

**Act binds the Crown**

- “4.(1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island. 15

- “2) Nothing in this Act renders the Crown in any right liable to be prosecuted for an offence.

**“PART 2—APPROVAL OF CHARTER**

**Approval 20**

- “5. The Charter of the United Nations (a copy of which is set out in the Schedule) is approved.

**“PART 3—REGULATIONS TO APPLY SECURITY COUNCIL SANCTIONS**

***“Division 1—Making and effect of regulations 25***

**Regulations may apply sanctions**

- “6. The Governor-General may make regulations for and in relation to giving effect to decisions that:

- (a) the Security Council has made under Chapter VII of the Charter of the United Nations; and 30

- (b) Article 25 of the Charter requires Australia to carry out;

in so far as those decisions require Australia to apply measures not involving the use of armed force.

Note: Articles 39 and 41 of the Charter provide for the Security Council to decide what measures not involving the use of armed force are to be taken to maintain or restore international peace and security.

**Regulations may have extra-territorial effect**

“7.(1) The regulations may be expressed to have extra-territorial effect.

“(2) If they are so expressed, they have effect accordingly, and so does Division 2 of this Part.

5 **Regulations expire when sanctions resolution ceases to bind Australia**

“8.(1) In so far as the regulations provide for or in relation to giving effect to a particular decision of the Security Council:

- (a) they cease to have effect when Article 25 of the Charter of the United Nations ceases to require Australia to carry out that decision; and
- 10 (b) they do not revive, even if Australia again becomes required to carry out the decision.

“(2) However, to avoid doubt, nothing in this section prevents the repeal of regulations, or the making of regulations that are the same in substance as regulations that have ceased to have effect because of this section.

15 **Effect of regulations on earlier Commonwealth Acts and on State and Territory laws**

“9. The regulations have effect despite:

- (a) an Act enacted before the commencement of this section; or
- 20 (b) an instrument made under such an Act (including such an instrument made at or after that commencement); or
- (c) a law of a State or Territory; or
- (d) an instrument made under such a law; or
- (e) any provision of the *Corporations Act 1989* or of the Corporations Law, Corporations Regulations, ASC Law, or ASC Regulations, of
- 25 the Australian Capital Territory; or
- (f) an instrument made under such a provision.

**Later Acts not to be interpreted as overriding this Part or the regulations**

30 “10.(1) An Act enacted at or after the commencement of this section is not to be interpreted as:

- (a) amending or repealing, or otherwise altering the effect or operation of, a provision of this Part or of the regulations; or
- (b) authorising the making of an instrument amending or repealing, or otherwise altering the effect or operation of, a provision of this Part
- 35 or of the regulations.

“(2) Subsection (1) does not affect the interpretation of an Act so far as that Act provides expressly for that Act, or for an instrument made under that Act, to have effect despite this Act, despite the regulations, or despite a specified provision of this Act or of the regulations.

**Other instruments giving effect to Security Council decisions** 5

“11. To avoid doubt, the validity or operation of an instrument made under another Act is not affected merely because the instrument was made in connection with giving effect to a decision of the Security Council.

*“Division 2—Enforcing the regulations*

**Offences** 10

“12.(1) The regulations may prescribe penalties of not more than 50 penalty units for offences against the regulations.

“(2) The limitation on penalties in subsection (1) does not prevent the regulations from requiring someone to make a statutory declaration.

**Injunctions** 15

“13.(1) If a person has engaged, is engaging, or proposes to engage, in conduct involving a contravention of the regulations, a superior court may by order grant an injunction restraining the person from engaging in conduct specified in the order.

“(2) An injunction may only be granted on application by the Attorney-General. 20

“(3) On an application, the court may, if it thinks it appropriate, grant an injunction by consent of all parties to the proceedings, whether or not the court is satisfied that subsection (1) applies.

“(4) A superior court may, if it thinks it desirable, grant an interim injunction pending its determination of an application. 25

“(5) A court is not to require the Attorney-General or anyone else, as a condition of granting an interim injunction, to give an undertaking as to damages.

“(6) A court may discharge or vary an injunction it has granted. 30

“(7) The power to grant or vary an injunction restraining a person from engaging in conduct may be exercised:

(a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in such conduct; and

(b) whether or not the person has previously engaged in such conduct. 35

“(8) In this section:  
**‘superior court’** means the Federal Court of Australia or the Supreme Court of a State or Territory.”

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**NOTE**

1. No. 32, 1945.



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