

Autonomous Sanctions Amendment (Afghanistan) Regulations 2025

Exposure Draft: Comments

1. It is desirable that Australia have in place an autonomous sanctions framework with respect to Afghanistan, over and above the sanctions which exist as a result of Australian implementation of sanctions based on the *United Nations Security Council Sanctions List established and maintained pursuant to Security Council Resolution 1988*. Australia's advancement of the *Autonomous Sanctions Amendment (Afghanistan) Regulations 2025* aligns with the initiative by Australia and other countries to take Afghanistan to the International Court of Justice under Article 29(1) the *Convention on the Elimination of All Forms of Discrimination Against Women* for severe violations of the human rights of women; with the decision on 8 July 2025 of Pre-Trial Chamber II of the International Criminal Court to issue warrants of arrest for Taliban leader Hibatullah Akhundzada and "Chief Justice" Abdul Hakim Haqqani; and with the UN Human Rights Council's resolution adopted on 6 October 2025 (A/HRC/RES/60/2), which established an independent investigative mechanism to collect, preserve, and analyse evidence of serious human rights violations in Afghanistan. The anticipated sanctions can target individuals and entities responsible for the oppression of women and girls, reinforcing Australia's commitment to a principled foreign policy that unequivocally supports justice and accountability. The framework proposed is appropriate to the needs of the situation, especially insofar as it covers:

A person or entity that the Minister is satisfied is engaging in, is responsible for or is complicit in, or has engaged in, been responsible for or been complicit in, any of the following:

- (a) the oppression of women and girls in Afghanistan;
- (b) the oppression of minority groups in Afghanistan;
- (c) the general oppression of people in Afghanistan;
- (d) undermining good governance or the rule of law in Afghanistan.

2. That said, the value of these sanctions will largely depend upon how *extensively*, and how *rigorously*, they are applied. We would strongly advocate that the Taliban in their entirety should be listed as an entity under all four categories proposed. The Taliban's systematic repression of women and girls is a matter of extreme notoriety (see Farkhondeh Akbari and Jacqui True, *Women, Peace, and Security in Afghanistan: Resistance and Resilience* (Berlin: DeGruyter Brill, 2026)); the Taliban's repression of Hazaras has been documented with care (Mehdi J. Hakimi, Ewelina U. Ochab, Maria Mingo, Susanna Kelley and Emily Prey, *The Hazara Genocide: An Examination of Breaches of the Genocide Convention in Afghanistan since August 2021* (Washington DC: New Lines Institute, September 1, 2025)); the Taliban's general repression has attracted damning commentary (*Afghanistan: Relentless Repression 4 Years into Taliban Rule* (New York: Human Rights Watch, August 5, 2025)); and the Taliban's undermining of the rule of law is manifested in the complete absence of any kind of Constitution (William Maley, "Taliban Rule and Anti-Constitutionalism", *Australian Outlook*, 23 August 2023).

3. Furthermore, there should be a default position that ministerial permits under regulation 18 of the *Autonomous Sanctions Regulations 2011* will *not* be granted. The recent visit to India of Amir Khan Muttaqi, who was exempted from a travel ban existing under UN Security Council sanctions, achieved nothing for ordinary Afghans but was trumpeted by the Taliban as a diplomatic breakthrough.

4. Sanctions are a form of signalling, and they lose much of their value if a government's signals are mixed. It is therefore very important that the government ensure that *no* steps that it takes can be read by the Taliban as a softening of Australia's position. One step *to avoid at all costs* would be interfering with the continued operation in Canberra of the Embassy of the Islamic Republic of

Afghanistan. This Embassy, which plays a critical role in highlighting the depravity of the Taliban regime, is a thorn in the Taliban's side, and any interference with its operations at the instigation of the Australian government would be celebrated as a victory by the Taliban, no matter how Australian officials might seek to frame it. Another step to avoid at all costs is to attempt to establish some kind of *consular* relationship with the Taliban, for example through the appointment of a Taliban sympathiser with Australian citizenship as an Honorary Consul for Afghanistan. Germany has ventured down the consular path, in a manifest attempt to facilitate deportations that might appeal to the far-right *Alternative für Deutschland* party, and it is a very dangerous move, blurring the attempt to signal to the Taliban that their actions are internationally unacceptable (see Nette Nöstlinger and Milka Fijalkowska, "Germany spearheads drive to legitimize Taliban in exchange for migrant deportations", *Politico*, October 17, 2025). Any such steps taken by an Australian government would be seen by large sections of the Afghan community as a gross betrayal of the values which the proposed autonomous sanctions regime purports to defend. The presence of a Taliban figure or ally in a consular capacity in Australia would raise significant concerns for members of the Afghan community in Australia who have fled Taliban persecution, and who hold legitimate fears that the Taliban might demand access to personal information held in the consular archives of the Afghanistan Embassy in Canberra.

5. It is worth noting that some active figures in the Taliban regime are dual nationals: for example, the Taliban "Foreign Ministry Spokesman" has been identified as a dual national of Afghanistan and New Zealand. There may be Afghan-Australians working to advance the interests of the Taliban, either in Afghanistan or in Australia. On our reading of the definition of "autonomous sanction" in section 4 of the *Autonomous Sanctions Act 2011*, this definition is sufficiently broad that such individuals would be captured by the proposed new sanctions framework, but if there is any lingering uncertainty on this point, it might be useful to consider further wording to put this beyond doubt.

6. We have no objection to being identified by name as the authors of this submission.

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