



INFORMATION NOTE

Autonomous Human Rights and Corruption Sanctions

The purpose of this information note is to provide information about Australia's autonomous human rights and corruption sanctions frameworks.

1. INTRODUCTION

Australia's autonomous human rights and corruption sanctions frameworks were established on 21 December 2021 under the *Autonomous Sanctions Regulations 2011* (the Regulations), as amended by the *Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Regulations 2021*. The primary legislation empowering the Sanctions Regulations is the *Autonomous Sanctions Act 2011*.

2. PURPOSE AND SCOPE OF AUTONOMOUS SANCTIONS LISTINGS

In line with Australia's broader autonomous sanctions framework and in support of Australia's national interest, listings under the human rights and corruption frameworks are intended to influence, directly or indirectly, the sanctioned person or entity, impose costs on those responsible and deter others from taking similar action.

Unlike country-specific autonomous sanctions, thematic autonomous sanctions do not require sanctionable conduct to have a particular geographic nexus.

3. WHO CAN BE LISTED UNDER THE CRITERIA?

The Regulations enable the Minister for Foreign Affairs (the Minister) to designate a person or entity for targeted financial sanctions and declare a person for a travel ban (together referred to as 'listings' in this document). Australia's autonomous sanctions allow for both State and non-State actors to be sanctioned.

The Minister can only list a person or entity if all or part of the sanctionable conduct occurred outside of Australia.

The application of the frameworks is reserved for the most egregious situations of international concern.

Human Rights criteria

The Minister has discretion, with agreement of the Attorney-General and after consultation with other Ministers as appropriate, to list a person or entity if the Minister is satisfied that the following has been established:

- 1) An act has occurred that constitutes a serious violation or serious abuse¹ of a person's:
 - right to life;
 - right not to be subjected to torture, or cruel, inhuman or degrading treatment or punishment; or
 - right not to be held in slavery or servitude, or right not to be required to perform forced or compulsory labour.
- 2) The person or entity to be listed has **engaged in**, has been **responsible for**, or has been **complicit in** the act set out above.

The listing criteria for the human rights framework also covers an 'immediate family member'² of a designated person³ and a person who or entity which has obtained a financial or other benefit as the result of an act of a designated person or entity.⁴

¹ 'Violations' describe the actions of State actors, whereas 'abuses' capture the actions of non-State actors. This reflects the fact that it is States who are duty bearers under international human rights law.

² The Sanctions Regulations define 'immediate family member' as a spouse of the person; an adult child of the person; a spouse of an adult child of the person; a parent of the person; a brother, sister, step-brother or step-sister of the person; or a spouse of a brother, sister, step-brother or step-sister of the person.

³ Autonomous Sanctions Regulations 2011, Subregulation 6A(8)

⁴ Autonomous Sanctions Regulations 2011, Subregulation 6A(9)

Corruption criteria

The Minister has discretion, with agreement of the Attorney-General and after consultation with other Ministers as appropriate, to list a person or entity if the Minister is satisfied that the following has been established:

- 1) An act has occurred that constitutes a serious act of corruption (for the purposes of the autonomous corruption sanctions framework, corruption is defined to mean **bribery** or **misappropriation of property** - this may differ from definitions of corruption in other jurisdictions).
- 2) The person or entity to be listed has **engaged in**, has been **responsible for**, or has been **complicit in** the act set out above.

The listing criteria for the corruption framework also covers an 'immediate family member'⁵ of a designated person⁶ and a person or entity that has obtained a financial or other benefit as the result of an act of a designated person or entity.⁷

The application of sanctions under the thematic corruption sanctions framework is reserved for the most serious acts of corruption. Examples of sanctionable conduct include (but are not limited to):

- serious corruption which results in a country's population being deprived of vital public resources;
- the misappropriation of state property of significant value as part of a systemic fraudulent scheme.

4. MATTERS THE MINISTER MAY RELY UPON WHEN CONSIDERING POSSIBLE LISTINGS

The Minister may only list a person or entity if satisfied, based on all relevant matters with regard to the facts and circumstances of each case, the person or entity meets the listing criteria in the Regulations. The Minister then exercises a discretion whether to list or not in the context of Australia's overall national interest.

Human Rights

The Regulations allow the Minister to impose sanctions on a person or entity the Minister is satisfied has committed a serious violation or serious abuse of one of the specified rights.

In deciding whether to impose sanctions, the following (non-exhaustive) considerations may also be relevant:

- Australia's national interest
- Australia's human rights priorities
- recency, or systematic nature, of conduct
- collective action with international partners
- appropriateness of sanctions in response to situations of international concern, including the availability of other human rights tools.

Information on Australia's human rights priorities and commitment to human rights is available at <https://www.dfat.gov.au/international-relations/themes/human-rights>

Corruption

The Regulations allow the Minister to impose sanctions on a person or entity the Minister is satisfied has committed an act of bribery or misappropriation of property that is serious.

In deciding whether an act of corruption is serious, the Minister may have regard to the following (non-exhaustive) matters:

- **The status or position of the person or entity:** including, for example, the level of influence of a person or entity in an organisation.

⁵ The Sanctions Regulations define 'immediate family member' as a spouse of the person; an adult child of the person; a spouse of an adult child of the person; a parent of the person; a brother, sister, step-brother or step-sister of the person; or a spouse of a brother, sister, step-brother or step-sister of the person.

⁶ Autonomous Sanctions Regulations 2011, Subregulation 6A(8)

⁷ Autonomous Sanctions Regulations 2011, Subregulation 6A(9)

- **The nature, extent and impact of the conduct of the person or entity:** including
 - whether the conduct is systemic, sophisticated or occurring over a long period of time; the financial value of the bribe, property diverted, or benefit or advantaged derived (including its significance relevant to the local context).
 - the possible secondary impacts (economic and political) in the relevant country and region; if the corruption undermines a country's democratic governance, weakens public institutions and rule of law; impedes international trade and investment; undermines sustainable development or deprives citizens of vital resources.
- **The circumstances in which that conduct occurred:** including, for example, whether a person has committed multiple acts of corruption or whether the conduct is connected to serious human rights violations or abuses or to threats to Australia's national security or international security, terrorism, transnational, serious and organised crime or instability overseas.

5. CIVIL SOCIETY ENGAGEMENT

Civil Society Organisations are welcome to provide submissions concerning possible human rights and/or corruption sanctions listings at any time. Information or submissions should be emailed to humanrightssanctions@dfat.gov.au.

When preparing submissions for consideration by government on human rights and/or corruption sanctions listings, it is helpful if the submission identifies the perpetrator and outlines how that person or entity has engaged in, been responsible for, or been complicit in activities that constitute a serious human rights abuse or violation, or serious corruption as set out above.

The following may be useful to consider in preparing submissions:

☐ Who is the person or entity?

Details of persons or entities recommended for designation (where known/available), for example:

- ✓ full name and any aliases
- ✓ date of birth
- ✓ nationality/citizenship
- ✓ relevant title/position
- ✓ any other personal identifiers
- ✓ any express connections with Australia

☐ What is the relevant act that has occurred?

Human rights: An act must amount to a violation/abuse of a person's:

- ✓ right to life; or
- ✓ right not to be subjected to torture, or cruel, inhuman or degrading treatment or punishment; or
- ✓ right not to be held in slavery or servitude or right not to be required to perform forced or compulsory labour.

Corruption: An act must amount to serious corruption, involving bribery or misappropriation of property.


☐ Where has the act occurred?

- ✓ All or part of the sanctionable conduct must have occurred outside of Australia.

☐ How is the person or entity involved in the act identified above?

Outline how the act/conduct set out above is attributable to the person or entity sought to be designated for sanctions, including the following considerations:

- ✓ extent to which the person or entity *engaged* in the act
- ✓ extent to which the person or entity was *responsible* for the act (for example, where they directed others to engage in the act)
- ✓ extent to which the person or entity was *complicit* with the act (this requires more than mere knowledge the act was committed).



The government will consider all submissions received, but will not necessarily list the persons or entities proposed in submissions. Sanctions are just one foreign policy tool available to Australia to support its commitment to advance and protect human rights and the rule of law globally. Whether sanctions are the most appropriate mechanism for responding to a situation of international concern will depend on the particular circumstances.

Given the nature of sanctions, and the established practice of not speculating on their potential use, it would not be appropriate for the government to respond to submissions, aside from confirmation of receipt. The government will not publicly speculate on who may be subject to future listings.

6. HANDLING OF INFORMATION

Information provided by individuals or organisations in relation to human rights or corruption sanctions listings will be treated as confidential, unless that individual or organisation notifies the Department of Foreign Affairs and Trade in writing. Any information provided will only be used to administer sanctions law in accordance with the [Autonomous Sanctions Act 2011](#). DFAT will not disclose this information outside the Commonwealth, unless the individual or organisation has provided consent, or the Commonwealth is otherwise required or authorised to do so by law.