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The Parliament of the
Commonwealth of Australia

THE SENATE

EXPOSURE DRAFT

Autonomous Sanctions Bill 2026

No. , 2026

(Foreign Affairs and Trade)

A Bill for an Act to provide for the imposition, administration and enforcement of autonomous sanctions, and for related purposes

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A Bill for an Act to provide for the imposition, administration and enforcement of autonomous sanctions, and for related purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act is the *Autonomous Sanctions Act 2026*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
1. The whole of this Act	The earlier of: (a) a single day to be fixed by Proclamation; and (b) 1 October 2027.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Simplified outline of this Act

This Act creates a framework for the imposition, administration and enforcement of autonomous sanctions.

An autonomous sanction is a restriction or prohibition of conduct in, or connected with, Australia, as imposed under Part 2.

Autonomous sanctions may be imposed in relation to countries or parts of countries (known as geographically-specific sanctions) or themes (known as thematic sanctions).

Geographically-specific sanctions require a connection to a particular country or a particular part of a country. The rules will prescribe the particular countries (known as listed countries) and parts of countries (known as listed parts of countries) in relation to which the restrictions and prohibitions in Part 2 will apply. Goods, services and activities may be prescribed, and persons and entities may be declared, in relation to listed countries and listed parts of countries.

Thematic sanctions are issue-based sanctions targeting issues or themes of concern that do not require a connection to particular countries or parts of countries. Examples of themes captured by this Act are the proliferation of weapons of mass destruction and serious violations or abuses of human rights. Persons and entities may be declared in relation to a listed theme. Unlike geographically-specific sanctions, goods, services and activities cannot be prescribed in relation to listed themes.

The autonomous sanctions in Part 2 can broadly be categorised as dealing with the following matters:

(a) export sanctioned goods (see Division 3 of Part 2);
(b) import sanctioned goods (see Division 3 of Part 2);
(c) sanctioned economic etc. activities (see Division 3 of Part 2);
(d) sanctioned services (see Division 3 of Part 2);
(e) sanctioned vessels (see Division 4 of Part 2);
(f) targeted financial sanctions (see Division 5 of Part 2);
(g) travel bans (see Division 5 of Part 2).

Offence-specific defences apply to particular sanctions offences in Part 2. Part 3 also sets out general exemptions to those offences, including class-based exemptions prescribed by the rules, an exemption relating to diplomatic or consular missions in relation to which Australia is the sending State and exemptions relating to the provision of legal services and humanitarian aid or humanitarian assistance. A defence of taking reasonable precautions, and exercising due diligence, applies in relation to strict liability offences imposed upon bodies corporate.

The Minister may issue a permit to a particular person, authorising the person (and any persons specified in the permit) to engage in conduct that may otherwise contravene a provision of Part 2.

The Minister may also prescribe, in the rules, circumstances in which a class of persons or entities is, or the classes of persons or entities that are, authorised to engage in conduct that may otherwise contravene a provision of Part 2.

Part 5 deals with information management. The Secretary has compulsory and non-compulsory information gathering powers, including to obtain information or documents for the purposes of administering, or monitoring compliance with, this Act.

Entrusted persons, including the Minister, Secretary and officials of the Department, are authorised to use and disclose certain information (called relevant information) for certain purposes.

Part 6 deals with miscellaneous matters, including delegations by the Minister and the Secretary, and the requirement to conduct 5-yearly reviews of the operation of this Act and related legislation. Finally, the Minister may make legislative rules for the purposes of this Act.

4 Objects of this Act

The objects of this Act are to:

(a) provide a flexible and responsive framework for the imposition, administration and revocation of autonomous sanctions; and

(b) facilitate the achievement of Australia’s foreign policy objectives.

5 Application of this Act

(1) This Act extends to the external Territories.

(2) This Act extends to acts, omissions, matters and things outside Australia.

6 Extended geographical jurisdiction for offences

Section 15.1 of the *Criminal Code* (Extended geographical jurisdiction—category A) applies to an offence against this Act.

7 Act binds the Crown

(1) This Act binds the Crown in each of its capacities.

(2) This Act does not make the Crown liable to be prosecuted for an offence.

8 Relationship with other laws

(1) This Act does not limit the operation of other laws of the Commonwealth so far as they operate in relation to autonomous sanctions.

Note: A reference to this Act includes the rules (see the definition of ***this Act*** in section 9).

(2) Subject to subsection (1), this Act has effect despite anything in a law of the Commonwealth, a State or a Territory (whether passed or made before or after the commencement of this section).

(3) Subsection (2) does not apply:

(a) to the extent that an Act of the Commonwealth expressly provides otherwise; or

(b) in relation to Division 122 of the *Criminal Code* (which deals with the secrecy of information).

9 Definitions

In this Act:

Australia when used in a geographical sense, includes the external Territories.

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Australian court or tribunal means a court or tribunal of the Commonwealth, a State or a Territory.

autonomous sanction has the meaning given by subsection 12(1).

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

covered: for when a person is ***covered*** by a sanctions permit, see paragraph 49(b).

effective control has the meaning given by section 10.

engage in conduct means:

(a) do an act; or

(b) omit to perform an act.

entrusted person means any of the following:

(a) the Minister;

(b) the Secretary;

(c) an APS employee in the Department;

(d) any other person who is employed or engaged by the Commonwealth to provide services to the Commonwealth in connection with the Department;

(e) any other person who is in a class of persons prescribed by the rules.

export sanctioned goods has the meaning given by subsection 16(1).

financially restricted asset has the meaning given by section 29.

financially sanctioned person or entity has the meaning given by subsection 28(1).

foreign government entity means:

(a) the government of a foreign country or of part of a foreign country; or

(b) an authority or agency of the government of a foreign country; or

(c) an authority or agency of the government of part of a foreign country.

geographically-specific sanction means an autonomous sanction imposed under Part 2 in relation to a listed country or a listed part of a country.

immediate family member, of a person, means:

(a) a spouse of the person; or

(b) an adult child of the person; or

(c) a spouse of an adult child of the person; or

(d) a parent of the person; or

(e) a brother, sister, step-brother or step-sister of the person; or

(f) a spouse of a brother, sister, step-brother or step-sister of the person.

import sanctioned goods has the meaning given by subsection 17(1).

listed country means a country that is declared as a listed country in rules made under section 15.

listed part, of a country, means a part of a country that is declared as a listed part of the country in rules made under section 15.

listed theme has the meaning given by subsection 14(1).

permanent resident of Australia means a person who is a permanent resident within the meaning of the *Australian Citizenship Act 2007*.

permit holder has the meaning given by paragraph 49(a).

personal information has the same meaning as in the *Privacy Act 1988*.

prohibited traveller has the meaning given by subsection 32(1).

relevant information means:

(a) information obtained by a person under this Act; or

(b) information obtained or generated by a person in the course of, or for the purposes of:

(i) administering this Act, or monitoring compliance with this Act; or

(ii) assisting another person to administer this Act or monitor compliance with this Act; or

(iii) performing functions or duties, or exercising powers, under this Act; or

(iv) assisting another person to perform functions or duties, or exercise powers, under this Act.

rules means the rules made under section 82.

sanctioned economic etc. activity has the meaning given by subsection 18(1).

sanctioned service has the meaning given by section 19.

sanctions permit means a permit issued under section 48 (including as varied).

Secretary means Secretary of the Department.

State or Territory body includes a Department of State, or an authority or agency of a State or Territory.

thematic sanction means an autonomous sanction imposed under Part 2 in relation to a listed theme.

this Act includes the rules.

use, in relation to information, includes make a record of.

10 Meaning of *effective control*

Entity that is a body corporate

(1) ***Effective control***, of an entity that is a body corporate, is:

(a) having the capacity to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a general meeting of the body corporate; or

(b) directly or indirectly holding more than one half of the issued share capital of the body corporate (not including any part of the issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital, and not including MCIs); or

(c) having the capacity to control the composition of a majority or the whole of the body corporate's board or governing body; or

(d) having the capacity to determine the outcome of decisions about the body corporate's financial and operating policies, taking into account:

(i) the practical influence that can be exerted (rather than the rights that can be enforced); and

(ii) any practice or pattern of behaviour affecting the body corporate's financial or operating policies (whether or not it involves a breach of an agreement or a breach of trust).

(2) For the purposes of paragraph (1)(b), ***MCI*** has the same meaning as in the *Corporations Act 2001*, and ***issued*** has the same meaning as in Chapter 7 of that Act.

Entity other than a body corporate

(3) ***Effective control***, of an entity other than a body corporate, is:

(a) having the capacity to control the composition of a majority or the whole of the entity's board or governing body (if any); or

(b) having the capacity to determine the outcome of decisions about the entity's financial and operating policies, taking into account:

(i) the practical influence that can be exerted (rather than the rights that can be enforced); and

(ii) any practice or pattern of behaviour affecting the entity's financial or operating policies (whether or not it involves a breach of an agreement or a breach of trust).

Part 2—The autonomous sanctions

Division 1—Simplified outline of this Part

11 Simplified outline of this Part

This Part deals with the imposition of autonomous sanctions.

Autonomous sanctions restrict or prohibit conduct in, or connected with, Australia. The Minister must be satisfied of certain matters before rules are made imposing sanctions under particular provisions of this Part. Such matters include that the rules will:

(a) signal disapproval or denouncement of conduct that is contrary to Australia's foreign policy interests; or

(b) influence a foreign government entity, a member of a foreign government entity, or another person or entity outside of Australia.

Autonomous sanctions may be imposed in relation to:

(a) listed countries and listed parts of countries (known as geographically-specific sanctions); and

(b) listed themes (known as thematic sanctions).

Division 3 deals with autonomous sanctions relating to goods, services and activities. These sanctions are geographically-specific sanctions and are known as trade and economic measures.

Offences apply in relation to various dealings with goods that are prescribed as export sanctioned goods or import sanctioned goods in relation to a listed country or a listed part of a country. This includes the exportation, importation, sale, supply, transfer or transportation of such goods.

Offences also apply in relation to engaging in an activity that is prescribed as a sanctioned economic etc. activity, or providing a sanctioned service.

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> Division 4 deals with autonomous sanctions relating to vessels. [*To be drafted*.]
>
> Division 5 deals with autonomous sanctions relating to persons or entities—known as targeted financial sanctions and travel bans. These sanctions may be both geographically-specific and thematic sanctions.
>
> A person or entity may be declared by the rules to be a financially sanctioned person or entity. A person may commit an offence if the person makes an asset available to, or for the benefit of, a financially sanctioned person or entity.
>
> A person may also be declared by the rules to be a prohibited traveller, preventing the person from travelling to, entering or remaining in Australia. Travel bans are enforced under the *Migration Act 1958*.
>
> Offence-specific defences apply to particular offences in this Part. General exemptions and defences in Part 3 may also apply to the offences in this Part.

Division 2—Key concepts and requirements for making rules under this Part

12 Meaning of *autonomous sanction*

(1) ***Autonomous sanction*** means a restriction or prohibition of conduct in, or connected with, Australia, as imposed under this Part.

(2) Without limiting subsection (1), autonomous sanctions may be imposed in relation to one or more of the following:

- (a) a listed country (see section 15);
- (b) a listed part of a country (see section 15);
- (c) a listed theme (see section 14).

13 Minister must be satisfied of certain matters before making rules under provisions of this Part

(1) Before making rules for the purposes of one or more provisions mentioned in subsection (2), the Minister must be satisfied that the proposed rules will:

- (a) either:
  - (i) facilitate the conduct of Australia's relations with other countries, or with entities or persons outside Australia; or
  - (ii) otherwise deal with matters, things or relationships outside Australia; and
- (b) do one or more of the following:
  - (i) signal disapproval or denouncement of conduct that is contrary to Australia's foreign policy interests;
  - (ii) limit the adverse impacts of a matter on Australia's foreign policy interests;
  - (iii) deter or disrupt persons from engaging in, or facilitating others to engage in, conduct that contributes to, or is reasonably expected to contribute to, a matter that is detrimental to Australia's foreign policy interests;

(iv) influence (directly or indirectly) a foreign government entity, a member of a foreign government entity, or another person or entity outside of Australia, in accordance with Australia's foreign policy interests.

Note: This requirement applies to rules as initially made, as well as any amendments to those rules.

(2) The provisions are the following:

(a) paragraph 14(1)(g) (which deals with declaring an issue or theme as a listed theme);

(b) section 15 (which deals with declaring a country as a listed country etc.);

(c) paragraph 16(1)(a) (which deals with prescribing goods as export sanctioned goods);

(d) paragraph 17(1)(a) (which deals with prescribing goods as import sanctioned goods);

(e) paragraph 18(1)(a) (which deals with prescribing activities as sanctioned economic etc. activities);

(f) subsection 28(1) and paragraph 28(3)(a) (which deal with declarations of persons or entities as financially sanctioned persons or entities);

(g) subsection 32(1) and paragraph 32(4)(a) (which deal with declarations of persons as prohibited travellers).

14 Thematic sanctions—listed themes

(1) Autonomous sanctions imposed under this Part may relate to one or more of the following issues or themes (a ***listed theme***):

(a) the proliferation of weapons of mass destruction;

(b) threats to international peace and security;

(c) malicious cyber activity;

(d) serious violations or serious abuses of human rights;

(e) activities undermining good governance or the rule of law, including serious corruption;

(f) serious violations of international humanitarian law;

(g) an issue or theme declared by the rules.

Note: Autonomous sanctions imposed under this Part in relation to a listed theme are known as ***thematic sanctions***.

(2) Before an issue or theme is declared as a listed theme under paragraph (1)(g), the Minister must:

(a) consult the Attorney-General and obtain the Attorney-General's written agreement to the declaration; and

(b) consult such other Ministers as the Minister considers appropriate.

Note: The Minister must also be satisfied of certain matters before rules are made to declare an issue or theme: see section 13.

15 Geographically-specific sanctions—listed countries and listed parts of countries

The rules may declare:

(a) a country as a ***listed country***; or

(b) a part of a country as a ***listed part*** of the country.

Note 1: Autonomous sanctions imposed under this Part in relation to a listed country, or a listed part of a country, are known as ***geographically-specific sanctions***.

Note 2: The Minister must be satisfied of certain matters before rules are made under this section: see section 13.

Division 3—Autonomous sanctions relating to goods, services and activities

Subdivision A—Meaning of key terms

16 Meaning of *export sanctioned goods*

(1) Goods (whether tangible or intangible) are ***export sanctioned goods*** for a listed country or a listed part of a country if:

(a) the goods are prescribed by the rules as export sanctioned goods in relation to that country or part of a country; and

(b) the goods are not exempted under the rules in relation to that country or part of a country.

Note: The Minister must be satisfied of certain matters before rules are made for the purposes of paragraph (a): see section 13.

Example: Gold is an example of a tangible good. Software is an example of an intangible good.

Manner of prescription or exemption

(2) Goods may be prescribed or exempted under subsection (1) by reference to any matter, including, but not limited to, any of the following:

(a) the intrinsic qualities of the goods;

(b) the purposes for which the goods will be, or are generally, used;

(c) the value of the goods;

(d) the manner or circumstances in which the goods are supplied, sold, transported or transferred;

(e) the time when, or the period within which, the goods are made, manufactured, supplied or otherwise dealt with.

17 Meaning of *import sanctioned goods*

(1) Goods (whether tangible or intangible) are ***import sanctioned goods*** for a listed country or a listed part of a country if:

(a) the goods are prescribed by the rules as import sanctioned goods in relation to that country or part of a country; and

(b) the goods are not exempted under the rules in relation to that country or part of a country.

Note: The Minister must be satisfied of certain matters before rules are made for the purposes of paragraph (a): see section 13.

Example: Oil is an example of a tangible good. A patent is an example of an intangible good.

Manner of prescription or exemption

(2) Goods may be prescribed or exempted under subsection (1) by reference to any matter, including, but not limited to, any of the following:

(a) the intrinsic qualities of the goods;

(b) the purposes for which the goods will be, or are generally, used;

(c) the value of the goods;

(d) the manner or circumstances in which the goods are imported, purchased, transported or transferred;

(e) the time when, or the period within which, the goods are made, manufactured, supplied or otherwise dealt with.

18 Meaning of *sanctioned economic etc. activity*

(1) An activity is a ***sanctioned economic etc. activity*** in relation to a listed country or a listed part of a country if:

(a) the activity is prescribed by the rules as a sanctioned economic etc. activity in relation to that country or part of a country; and

(b) the activity is not exempted under the rules in relation to that country or part of a country.

Note: The Minister must be satisfied of certain matters before rules are made for the purposes of paragraph (a): see section 13.

Limits on prescription of activities

(2) The rules may only prescribe a particular activity, or an activity included in a class of activities, as a sanctioned economic etc. activity under subsection (1) if:

(a) the activity or class is military or defence-related, or is economic, financial or commercial in nature; and

(b) the rules prescribe the sector, industry, persons or entities in relation to which the activity or class is so prescribed as a sanctioned economic etc. activity.

Manner of prescription of activities

(3) Subject to subsection (2), activities may be prescribed or exempted under subsection (1) by reference to any matter, including, but not limited to, any of the following:

(a) the purpose for which the activity is, or is predominantly, undertaken;

(b) the manner or circumstances in which the activity is undertaken;

(c) the intended or expected result of undertaking the activity;

(d) the persons or entities undertaking the activity, or in relation to whom the activity is undertaken.

Interaction with other provisions of this Part

(4) To avoid doubt, an activity or class of activities may be prescribed under paragraph (1)(a) whether or not another provision of this Part applies in relation to the activity or class.

19 Meaning of *sanctioned service*

A service is a ***sanctioned service*** in relation to a listed country or a listed part of a country if:

(a) the service is, or predominantly involves, the provision of financial assistance, a financial service or technical advice, assistance or training; and

(b) the service relates to:

(i) goods that are export sanctioned goods in relation to that county or part of a country; or

(ii) goods that are import sanctioned goods in relation to that county or part of a country; or

(iii) activities that are sanctioned economic etc. activities in relation to that county or part of a country.

20 Interpretative rules

(1) If goods are export sanctioned goods in relation to a listed country, the goods are export sanctioned goods in relation to all of that country (whether or not parts of the country are otherwise listed parts of that country).

(2) Goods are not export sanctioned goods in relation to a country merely because the goods are export sanctioned goods in relation to a part of that country that is a listed part of that country.

(3) If more than one part of a country is a listed part of the country, the parts are to be considered separately (even if one part is located within another), and goods are not export sanctioned goods in relation to one part merely because they are export sanctioned goods in relation to another part.

(4) Subsections (1) to (3) apply in relation to:

(a) goods that are prescribed as import sanctioned goods; and

(b) activities that are prescribed as sanctioned economic etc. activities; and

(c) services that are sanctioned services;

under this Division, in the same way that those subsections apply in relation to goods that are prescribed as export sanctioned goods.

Subdivision B—Prohibitions relating to goods, services and activities

21 Prohibition—exporting export sanctioned goods

(1) A person contravenes this subsection if:

(a) the person exports goods from Australia; and
(b) the goods are export sanctioned goods in relation to:
(i) a listed country; or
(ii) a listed part of a country; and
(c) either of the following apply:
(i) the person intends the goods to be imported into that country or part of a country;
(ii) the immediate or final destination of the goods is that country or part of a country; and
(d) the exportation of the goods by the person is not authorised by a sanctions permit.

Fault-based offence—individuals

(2) An individual commits an offence if the individual contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 43.

(3) For the purposes of subsection (2), strict liability applies to paragraph (1)(d).

Exception—personal use etc.

(4) Subsection (2) does not apply to an individual to the extent that:
(a) the goods exported by the individual are prescribed by the rules for the purposes of this paragraph; and
(b) any of the following apply:
(i) the goods are the personal effects of the individual;
(ii) the goods are exported for non-commercial, personal or domestic use by the individual or an immediate family member of the individual.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Strict liability offences—bodies corporate

(5) A body corporate commits an offence of strict liability if the body corporate contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(6) A body corporate commits an offence of strict liability if:

(a) the body corporate has effective control over another entity; and

(b) the other entity contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

22 Prohibition—selling, supplying or transferring export sanctioned goods

(1) A person contravenes this subsection if:

(a) the person sells, supplies or transfers goods; and

(b) the goods are export sanctioned goods in relation to:

(i) a listed country; or

(ii) a listed part of a country; and

(c) as a direct or indirect result of the sale, supply or transfer, the goods are, or are likely to be, made available:

(i) to one or more persons (whether identifiable or not) in that country or that part of a country; or

(ii) for use in that country or that part of a country; or

(iii) for the benefit of that country or that part of a country; and

(d) the sale, supply or transfer of the goods by the person is not authorised by a sanctions permit.

Example: For paragraph (c), selling an export sanctioned good to a person acting as an intermediary, knowing or reckless as to whether the good will then be made available for use in the listed country in relation to which the good is an export sanctioned good, is an example of an indirect result of the sale.

Fault-based offence—individuals

(2) An individual commits an offence if the individual contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 43.

(3) For the purposes of subsection (2), strict liability applies to paragraph (1)(d).

Exception—personal use etc.

(4) Subsection (2) does not apply to the extent that:

(a) the goods are prescribed by the rules for the purposes of this paragraph; and

(b) the goods are sold, supplied or transferred for non-commercial, personal or domestic use.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code.*

Strict liability offences—bodies corporate

(5) A body corporate commits an offence of strict liability if the body corporate contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(6) A body corporate commits an offence of strict liability if:

(a) the body corporate has effective control over another entity; and

(b) the other entity contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(7) Subsections (5) and (6) do not apply unless a result mentioned in paragraph (1)(c):

(a) is, in fact, likely to occur; or

(b) is intended by the body corporate, or the entity, (as applicable) to occur.

Note: A defendant bears an evidential burden in relation to a matter in subsection (8): see subsection 13.3(3) of the *Criminal Code*.

23 Prohibition—importing import sanctioned goods

(1) A person contravenes this subsection if:

(a) the person imports goods into Australia; and

(b) the goods are import sanctioned goods in relation to:

(i) a listed country; or
(ii) a listed part of a country; and
(c) any of the following apply:
(i) the goods are imported from the listed country or listed part of a country;
(ii) the goods were (in whole or in part) made or manufactured in, or otherwise originated in, that country or part of a country; and
(d) the importation of the goods by the person is not authorised by a sanctions permit.

Fault-based offence—individuals

(2) An individual commits an offence if the individual contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 43.

(3) For the purposes of subsection (2), strict liability applies to paragraph (1)(d).

Exception—personal use etc.

(4) Subsection (2) does not apply to an individual to the extent that:
(a) the goods imported by the individual are prescribed by the rules for the purposes of this paragraph; and
(b) any of the following apply:
(i) the goods are the personal effects of the individual;
(ii) the goods are imported for non-commercial, personal or domestic use by the individual or an immediate family member of the individual.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Strict liability offences—bodies corporate

(5) A body corporate commits an offence of strict liability if the body corporate contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(6) A body corporate commits an offence of strict liability if:

(a) the body corporate has effective control over another entity; and

(b) the other entity contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

24 Prohibition—obtaining or purchasing import sanctioned goods

(1) A person contravenes this subsection if:

(a) the person obtains or purchases goods; and

(b) the goods are import sanctioned goods in relation to:

(i) a listed country; or

(ii) a listed part of a country; and

(c) any of the following apply:

(i) the goods were (in whole or in part) made or manufactured in, or otherwise originated from, that country or part of a country;

(ii) the goods were obtained or purchased, whether directly or indirectly, from a person or entity located in that country or part of a country; and

(d) the obtainment or purchase of the goods by the person is not authorised by a sanctions permit.

Fault-based offence—individuals

(2) An individual commits an offence if the individual contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 43.

(3) For the purposes of subsection (2), strict liability applies to paragraph (1)(d).

Exception—personal use etc.

(4) Subsection (2) does not apply to the extent that:

(a) the goods are prescribed by the rules for the purposes of this paragraph; and

(b) the goods are obtained or purchased for non-commercial, personal or domestic use by the individual or an immediate family member of the individual.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Strict liability offences—bodies corporate

(5) A body corporate commits an offence of strict liability if the body corporate contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(6) A body corporate commits an offence of strict liability if:

(a) the body corporate has effective control over another entity; and

(b) the other entity contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

25 Prohibition—transporting export sanctioned goods or import sanctioned goods

(1) A person contravenes this subsection if:

(a) the person transports goods; and

(b) the goods are import sanctioned goods, or export sanctioned goods, in relation to:

(i) a listed country; or

(ii) a listed part of a country; and

(c) the transportation of the goods occurs wholly, or partly, within that country or part of a country; and

(d) the transportation of the goods by the person is not authorised by a sanctions permit.

Note: For paragraph (c), transportation of the goods may occur, for example, wholly within a listed country, or across the border of a listed country.

Fault-based offence—individuals

(2) An individual commits an offence if the individual contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 43.

(3) For the purposes of subsection (2), strict liability applies to paragraph (1)(d).

Exception—personal effects etc.

(4) Subsection (2) does not apply to the extent that:
- (a) the goods are the personal effects of the individual; or
- (b) both of the following apply:
  - (i) the goods are prescribed by the rules for the purposes of this paragraph;
  - (ii) the goods are transported for non-commercial, personal or domestic use by the individual or an immediate family member of the individual.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Fault-based offence—bodies corporate

(5) A body corporate commits an offence if the body corporate contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(6) For the purposes of subsection (5), strict liability applies to paragraphs (1)(b) and (d).

Strict liability offence—bodies corporate

(7) A body corporate commits an offence of strict liability if:
- (a) the body corporate has effective control over another entity; and
- (b) the other entity contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.]

26 Prohibition—engaging in sanctioned economic etc. activities

(1) A person contravenes this subsection if:
- (a) the person engages in, or undertakes, an activity; and
- (b) the activity is a sanctioned economic etc. activity in relation to a listed country or a listed part of a country; and
- (c) the person is not authorised by a sanctions permit to engage in, or undertake, the activity.

Fault-based offence—individuals

(2) An individual commits an offence if the individual contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 43.

(3) For the purposes of subsection (2), strict liability applies to paragraph (1)(c).

Strict liability offences—bodies corporate

(4) A body corporate commits an offence of strict liability if the body corporate contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(5) A body corporate commits an offence of strict liability if:
- (a) the body corporate has effective control over another entity; and
- (b) the other entity contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

27 Prohibition—providing sanctioned services

(1) A person (the ***first person***) contravenes this subsection if:
- (a) the first person provides a service to, or in relation to, one or more persons or entities; and
- (b) the service is a sanctioned service in relation to a listed country or a listed part of a country; and

(c) the provision of the service facilitates or otherwise assists, or is likely to facilitate or otherwise assist, one or more persons to engage in conduct that contravenes, or would contravene, subsection 21(1), 22(1), 23(1), 24(1), 25(1) or 26(1) (provisions prohibiting conduct relating to export sanctioned goods, import sanctioned goods and sanctioned economic etc. activities); and

(d) the provision of the service by the first person is not authorised by a sanctions permit.

Fault-based offence—individuals

(2) An individual commits an offence if the individual contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 43.

(3) For the purposes of subsection (2), strict liability applies to paragraph (1)(d).

Strict liability offences—bodies corporate

(4) A body corporate commits an offence of strict liability if the body corporate contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(5) A body corporate commits an offence of strict liability if:

(a) the body corporate has effective control over another entity; and

(b) that other entity contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

Division 4—Autonomous sanctions relating to vessels

To be drafted.

EXPOSURE DRAFT

Division 5—Autonomous sanctions relating to persons or entities

Subdivision A—Targeted financial sanctions

28 Declaration of persons or entities—financially sanctioned persons or entities

Declaration of persons or entities

(1) The rules may declare a person or entity to be a ***financially sanctioned person or entity*** in relation to one or more of the following:

(a) a listed country;

(b) a listed part of a country;

(c) a listed theme.

Note 1: The Minister must be satisfied of certain matters before rules are made for the purposes of this subsection: see section 13 and paragraph (3)(a) of this section.

Note 2: A person may commit an offence if the person makes an asset available to, or for the benefit of, a financially sanctioned person or entity: see subsection 30(1).

Note 3: A person may commit an offence if the person uses or deals with an asset that is a financially restricted asset: see subsection 31(1).

(2) A person must not be declared under subsection (1) if the person is:

(a) an Australian citizen; or

(b) an Australian permanent resident.

Minister must be satisfied of certain matters

(3) A person or entity may only be declared under subsection (1) if the Minister is satisfied that:

(a) the person or entity meets the requirements prescribed, or that will be prescribed, by the rules made for the purposes of this paragraph relating to the proposed declaration; or

(b) for a person—the person is an immediate family member of a person who is, or will be, declared under subsection (1).

Note 1: The Minister must be satisfied of certain matters before requirements are prescribed for the purposes of paragraph (a): see section 13.

Note 2: Consultation requirements apply to proposed declarations of persons or entities in relation to a listed theme: see section 33.

(4) Without limiting paragraph (3)(a), the rules may prescribe different requirements for:

(a) different listed countries, listed parts of countries or listed themes; and

(b) different classes of persons or entities; and

(c) different kinds of conduct or circumstances.

Interaction with Acts Interpretation Act 1901

(5) This section does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

29 Meaning of *financially restricted asset*

A ***financially restricted asset*** is an asset that is owned or controlled by a financially sanctioned person or entity.

30 Prohibition—making assets available to, or for the benefit of, financially sanctioned persons or entities

(1) A person contravenes this subsection if:

(a) the person directly or indirectly makes an asset available to, or for the benefit of, a person or entity (the ***receiving person or entity***); and

(b) the receiving person or entity is a financially sanctioned person or entity; and

(c) the making available of the asset is not authorised by a sanctions permit.

(2) For the purposes of paragraphs (1)(a) and (b), a person is taken to indirectly make an asset available to, or for the benefit of, a

financially sanctioned person or entity if the person makes the asset available to, or for the benefit of:

(a) an entity effectively controlled by the financially sanctioned person or entity; or

(b) an entity effectively controlled, in aggregate, by the financially sanctioned person or entity and one or more other financially sanctioned persons or entities.

Note: See section 10 for the meaning of ***effective control***.

(3) For the purposes of paragraph (2)(b), 2 or more persons or entities do not need to be acting in concert for an entity to be effectively controlled by such persons or entities in aggregate.

Fault-based offence—individuals

(4) An individual commits an offence if the individual contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 43.

(5) For the purposes of subsection (4), strict liability applies to paragraph (1)(c).

Strict liability offences—bodies corporate

(6) A body corporate commits an offence of strict liability if the body corporate contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(7) A body corporate commits an offence of strict liability if:

(a) the body corporate has effective control over another entity; and

(b) that other entity contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

31 Prohibition—using or dealing with financially restricted assets

(1) A person contravenes this subsection if:

(a) the person holds an asset; and

(b) the asset is a financially restricted asset; and

(c) the person:

(i) uses or deals with the asset; or

(ii) allows the asset to be used or dealt with; or

(iii) facilitates the use of, or dealing with, the asset; and

(d) the use or dealing is not authorised by a sanctions permit.

Note: A financially restricted asset is an asset that is owned or controlled by a financially sanctioned person or entity: see section 29.

Fault-based offence—individuals

(2) An individual commits an offence if the individual contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 43.

(3) For the purposes of subsection (2), strict liability applies to paragraph (1)(d).

Strict liability offences—bodies corporate

(4) A body corporate commits an offence of strict liability if the body corporate contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

(5) A body corporate commits an offence of strict liability if:

(a) the body corporate has effective control over another entity; and

(b) that other entity contravenes subsection (1).

Note: For the penalty for an offence against this subsection, see section 44.

EXPOSURE DRAFT

Subdivision B—Travel bans

32 Declaration of persons—prohibited travellers

Declaration of persons

(1) The rules may, for the purpose of preventing a person from travelling to, entering or remaining in Australia, declare the person to be a ***prohibited traveller***.

Note 1: The Minister must be satisfied of certain matters before rules are made for the purposes of this subsection: see section 13 and paragraph (4)(a) of this section.

Note 2: The declaration of a person as a prohibited traveller is grounds for cancelling a visa granted to the person: see regulations made for the purposes of section 116 of the *Migration Act 1958*.

(2) A person may be declared under subsection (1) in relation to one or more of the following:

(a) a listed country;

(b) a listed part of a country;

(c) a listed theme.

(3) A person must not be declared under subsection (1) if the person is:

(a) an Australian citizen; or

(b) an Australian permanent resident.

Minister must be satisfied of certain matters

(4) A person may only be declared under subsection (1) if the Minister is satisfied that:

(a) the person meets the requirements prescribed, or that will be prescribed, for the purposes of this paragraph relating to the proposed declaration; or

(b) the person is an immediate family member of a person who is, or will be, declared under subsection (1).

Note 1: The Minister must be satisfied of certain matters before requirements are prescribed under paragraph (a): see section 13.

Note 2: Consultation requirements apply to proposed declarations of persons in relation to a listed theme: see section 33.

(5) Without limiting paragraph (4)(a), the rules may prescribe different requirements for:

(a) different listed countries, listed parts of countries or listed themes; or

(b) different classes of persons; or

(c) different kinds of conduct or circumstances.

Interaction with Acts Interpretation Act 1901

(6) This section does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

Subdivision C—Other matters

33 Consultation requirements—declarations in relation to listed themes

(1) This section applies if the Minister proposes to do any of the following:

(a) prescribe, under paragraph 28(3)(a) or 32(4)(a), requirements relating to declarations of persons or entities in relation to a listed theme or an issue or theme proposed to be declared by the rules as a listed theme;

(b) declare a person or entity under subsection 28(1) or 32(1) in relation to a listed theme or an issue or theme that is proposed to be declared, by the rules, as a listed theme.

(2) Before prescribing the requirements or making the declaration under paragraph 28(3)(a) or 32(4)(a) or subsection 28(1) or 32(1), the Minister must:

(a) consult the Attorney-General and obtain the Attorney-General's written agreement to the prescription or declaration; and

(b) consult such other Ministers as the Minister considers appropriate.

34 Declaration of persons or entities relating to past circumstances, actions or positions

Without limiting this Division, persons or entities may be declared under this Division on the basis of:

(a) specified circumstances; or

(b) the actions of, or position held by, those persons or entities;

regardless of the period of time that has elapsed since the circumstances existed, the actions were so taken or the position was so held.

35 Revocation of declarations made under this Division

Circumstances in which Minister must revoke declaration

(1) Without limiting subsection (2), the Minister must amend the rules to revoke a declaration of a person or entity under subsection 28(1) or 32(1) if the Minister is satisfied that the person or entity does not meet, or no longer meets, the requirements under paragraph 28(3)(a) or 32(4)(a) (as applicable) relating to the declaration of the person or entity.

Revocation on own initiative or on application

(2) The Minister may amend the rules to revoke a declaration of a person or entity made under subsection 28(1) or 32(1), because of the operation of subsection (1) of this section or otherwise:

(a) on the Minister's own initiative; or

(b) on application by the person or entity.

Requirements for application

(3) An application under this section must:

(a) be given in a form and manner (if any) approved by the Secretary; and

(b) set out the circumstances relied upon to justify the application; and

(c) be accompanied by any information or documents required by the form; and

(d) be accompanied by any information or documents prescribed by the rules for the purposes of this paragraph.

Decision on initial application

(4) If:

(a) a person or entity makes an application in accordance with this section in relation to a declaration; and

(b) either:

(i) the person or entity has not made an application under this section in relation to that declaration within the previous 12 months; or

(ii) the Minister has not made a decision in relation to another application made by the person or entity under this section within the previous 12 months;

the Minister must make a decision on the application.

Decision on further application

(5) If:

(a) a person or entity makes an application (the ***further application***) under this section in relation to a declaration; and

(b) the person or entity has made an application (the ***earlier application***) under this section in relation to that declaration within the previous 12 months; and

(c) the Minister made a decision on the earlier application;

the Minister may, but is not required to, make a decision on the further application.

Matters to be considered

(6) In making a decision on an application made under this section, the Minister:

(a) must have regard to the following:

(i) whether the person or entity meets the requirements prescribed by rules made under paragraph 28(3)(a) or 32(4)(a) relating to the declaration of the person or entity;

(ii) any matter prescribed by the rules for the purposes of this subparagraph; and

(b) may have regard to any other matter the Minister considers relevant in relation to the application.

Note: If the Minister is satisfied the person or entity does not meet the requirements, as mentioned in subparagraph (a)(i), the Minister must revoke the declaration of the person or entity: see subsection (1) of this section.

(7) If, on application under this section, the Minister decides not to revoke a declaration of a person or entity, the Minister must give the person or entity written notice of the decision.

Interaction with Acts Interpretation Act 1901

(8) This section does not limit subsection 33(3) of the *Acts Interpretation Act 1901*.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* deals with revocation and variation etc. of instruments.

36 Exclusion of procedural fairness

The Minister is not required to observe any requirements of procedural fairness in relation to the declaration of a person or entity under this Division.

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Part 3—Enforcement

Division 1—Simplified outline of this Part

37 Simplified outline of this Part

> This Part deals with the enforcement of this Act.
>
> Division 2 of this Part provides for general exemptions and defences to the offences in Part 2.
>
> The rules may prescribe the circumstances in which a class of persons is, or the classes of persons who are, authorised to engage in conduct. Permits authorising the conduct of particular persons are dealt with in Part 4.
>
> Exemptions also apply to the provision of legal services, humanitarian aid or humanitarian assistance and in relation to diplomatic or consular missions for which Australia is the sending State.
>
> A defence of taking reasonable precautions, and exercising due diligence, applies in relation to strict liability offences in Part 2 imposed upon bodies corporate.
>
> A defendant bears an evidential burden in relation to the exemptions and defences in this Part.
>
> Division 3 provides for injunctions [*placeholder*].
>
> Division 4 deals with penalties for offences against this Act for individuals and bodies corporate, the physical elements of offences and references to contraventions of offence provisions in this Act.

Division 2—Exemptions and defences

38 Exemption—prescribed circumstances or persons

(1) A person does not contravene a provision of Part 2 if the conduct constituting the alleged contravention is authorised by rules made for the purposes of subsection (2).

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

(2) The rules may prescribe:

(a) the circumstances in which a specified class of persons is authorised to engage in conduct that would otherwise contravene a provision of Part 2; or

(b) classes of persons authorised to engage in conduct that would otherwise contravene a provision of Part 2.

(3) The rules may specify conditions on an authorisation prescribed under subsection (2).

Note: The Minister may issue a permit to a person authorising a particular person, and other particular persons mentioned in the permit, to engage in conduct that would otherwise contravene a provision of Part 2: see Part 4.

39 Exemption—legal services

Exemption

(1) A person does not contravene a provision of Part 2 if the person's conduct constituting the alleged contravention is a protected legal action.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Meaning of ***protected legal action***

(2) An action by a person described in each of the following paragraphs is a ***protected legal action***:

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(a) if the person is a legal services provider—an action by the person that is necessary to provide a protected legal service;

(b) an action by the person that is necessary for the person to obtain a protected legal service;

(c) an action by the person, acting on behalf of or at the direction of another person, that is necessary for the other person to obtain a protected legal service;

(d) an action by the person, in the course of providing any of the following services to another person (the ***recipient***), or to a person acting on behalf of or at the direction of the recipient, to the extent that the action is necessary to facilitate an action covered by paragraph (a), (b) or (c) relating to the recipient:

(i) postal, transport, courier, service of process or delivery services;

(ii) litigation document management services;

(iii) financial services;

(e) satisfying an order, made by an Australian court or tribunal, for legal costs, compensation or other money to be paid in relation to matters arising under or in relation to Australian law;

(f) complying with an obligation to pay legal costs, compensation or other money pursuant to a deed of settlement relating to matters arising under or in relation to Australian law;

(g) receiving legal costs, compensation or other money under an order or deed of settlement described in paragraph (e) or (f);

(h) consenting to the making of an order by an Australian court or tribunal in a proceeding in respect of matters arising under or in relation to Australian law.

Meaning of ***protected legal service***

(3) A ***protected legal service*** is each of the following:

(a) legal advice in relation to matters arising under or in relation to Australian law;

(b) legal representation in an Australian court or tribunal in relation to matters arising under or in relation to Australian law;

(c) a service directly related to the provision of services covered by paragraph (a) or (b), including the following:

(i) litigation document management services;

(ii) services relating to the engagement of expert witnesses;

(iii) any other administrative tasks necessary to facilitate proceedings in an Australian court or tribunal in relation to matters arising under or in relation to Australian law.

Meaning of ***legal services provider***

(4) A ***legal services provider*** means:

(a) a barrister, a solicitor, a barrister and solicitor or a legal practitioner of the High Court or of the Supreme Court of a State or Territory; or

(b) a partnership, company or other body that carries on a business of using persons referred to in paragraph (a) to supply legal services; or

(c) an employee or agent of:

(i) a person referred to in paragraph (a); or

(ii) a partnership, company or other body referred to in paragraph (b).

40 Exemption—humanitarian aid or humanitarian assistance

(1) A person does not contravene a provision of Part 2 if the person engages in the conduct constituting the alleged contravention in the circumstances prescribed by rules made for the purposes of subsection (2).

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Rules may prescribe circumstances in which humanitarian assistance defence applies

(2) The rules may prescribe the circumstances in which a person does not contravene a provision of Part 2. The rules may only prescribe circumstances that relate to the provision of humanitarian aid or humanitarian assistance by the person.

(3) Without limiting subsection (2), the rules may prescribe different circumstances for:

(a) different provisions of Part 2; or

(b) different listed countries, listed parts of countries or listed themes; or

(c) different classes of goods, services, activities or assets; or

(d) different classes of persons or entities engaged in the relevant conduct.

41 Exemption—diplomatic and consular missions

(1) A person does not contravene a provision of Part 2 mentioned in subsection (2) if:

(a) the person is the head of, or a member of the staff of, a diplomatic or consular mission in relation to which Australia is the sending State; and

(b) the person's conduct constituting the alleged contravention is reasonably necessary for, or incidental to, the operation of the mission.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

(2) The provisions are the following:

(a) subsection 21(2) (exporting export sanctioned goods);

(b) subsection 22(2) (selling, supplying or transferring export sanctioned goods);

(c) subsection 24(2) (obtaining or purchasing import sanctioned goods);

(d) subsection 25(2) (transporting export sanctioned goods or import sanctioned goods);

(e) subsection 30(4) (making assets available to, or for the benefit of, financially sanctioned persons or entities).

42 Defence of taking reasonable precautions, and exercising due diligence, to avoid a contravention

(1) A body corporate does not contravene a provision of Part 2 mentioned in subsection (2) if the body corporate proves that it took reasonable precautions, and exercised due diligence, to:

(a) in the case of a contravention of a provision by the body corporate—avoid contravening the provision; or

(b) in the case of a contravention of a provision by an entity the body corporate has effective control over—avoid the entity contravening the provision.

Note: The body corporate bears a legal burden in relation to a matter in this subsection: see section 13.4 of the *Criminal Code*.

(2) The provisions are the following:

(a) subsections 21(5) and (6) (exporting export sanctioned goods);

(b) subsections 22(5) and (6) (selling, supplying or transferring export sanctioned goods);

(c) subsections 23(5) and (6) (importing import sanctioned goods);

(d) subsections 24(5) and (6) (obtaining or purchasing import sanctioned goods);

(e) subsections 25(5) and (7) (transporting export sanctioned goods or import sanctioned goods);

(f) subsections 26(4) and (5) (engaging in sanctioned economic etc. activities);

(g) subsections 27(5) and (6) (providing sanctioned services);

(h) subsections 30(6) and (7) (making assets available to, or for the benefit of, financially sanctioned persons or entities);

(i) subsections 31(4) and (5) (using or dealing with financially restricted assets).

Division 3—Injunctions

To be drafted.

EXPOSURE DRAFT

Division 4—Penalties and other matters relating to offences

43 Penalties for offences—individuals

(1) An offence against a provision mentioned in subsection (3) committed by an individual is punishable on conviction by imprisonment for not more than 10 years or a fine of not more than the amount determined under subsection (2), or both.

Amount

(2) For the purposes of subsection (1), the amount is:

(a) if the offence involves a transaction or transactions the value of which the court can determine—whichever is the greater of the following:

(i) 3 times the value of the transaction or transactions;

(ii) 2,500 penalty units; or

(b) otherwise—2,500 penalty units.

Offence provisions

(3) The provisions are the following:

(a) subsection 21(2) (exporting export sanctioned goods);

(b) subsection 22(2) (selling, supplying or transferring export sanctioned goods);

(c) subsection 23(2) (importing import sanctioned goods);

(d) subsection 24(2) (obtaining or purchasing import sanctioned goods);

(e) subsection 25(2) (transporting export sanctioned goods or import sanctioned goods);

(f) subsection 26(2) (engaging in sanctioned economic etc. activities);

(g) subsection 27(2) (providing sanctioned services);

(h) subsection 30(4) (making assets available to, or for the benefit of, financially sanctioned persons or entities);

(i) subsection 31(2) (using or dealing with financially restricted assets).

44 Penalties for offences—bodies corporate

(1) An offence against a provision mentioned in subsection (3) committed by a body corporate is punishable on conviction by a fine of not more than the amount determined under subsection (2).

Amount

(2) For the purposes of subsection (1), the amount is:

(a) if the offence involves a transaction or transactions the value of which the court can determine—whichever is the greater of the following:

(i) 3 times the value of the transaction or transactions;

(ii) 10,000 penalty units; or

(b) otherwise—10,000 penalty units.

Offence provisions

(3) The provisions are the following:

(a) subsections 21(5) and (6) (exporting export sanctioned goods);

(b) subsections 22(5) and (6) (selling, supplying or transferring export sanctioned goods);

(c) subsections 23(5) and (6) (importing import sanctioned goods);

(d) subsections 24(5) and (6) (obtaining or purchasing import sanctioned goods);

(e) subsections 25(5) and (7) (transporting export sanctioned goods or import sanctioned goods);

(f) subsections 26(4) and (5) (engaging in sanctioned economic etc. activities);

(g) subsections 27(5) and (6) (providing sanctioned services);

(h) subsections 30(6) and (7) (making assets available to, or for the benefit of, financially sanctioned persons or entities);

(i) subsections 31(4) and (5) (using or dealing with financially restricted assets).

45 Physical elements of offences

(1) This section applies if a provision of this Act provides that a person contravening another provision of this Act (the ***conduct provision***) commits an offence.

(2) For the purposes of applying Chapter 2 of the *Criminal Code* to the offence, the physical elements of the offence are set out in the conduct provision.

Note: Chapter 2 of the *Criminal Code* sets out general principles of criminal responsibility.

46 Contravening offence provisions

(1) This section applies if a provision of this Act provides that a person contravening another provision of this Act (the ***conduct provision***) commits an offence.

(2) For the purposes of this Act, a reference to a contravention of an offence provision includes a reference to a contravention of the conduct provision.

Part 4—Sanctions permits

47 Simplified outline of this Part

> The Minister may issue a sanctions permit authorising a person, and other persons specified in the permit, to engage in conduct that may, but for the permit, contravene a provision of Part 2.
>
> The Minister must not issue a sanctions permit unless the Minister is satisfied that it would be in the national interest to issue the permit and of any circumstance or matter required by the rules for the issue of the permit.
>
> A sanctions permit may be issued on the Minister's own initiative or on application. There are matters that must be specified in a sanctions permit and a permit may be subject to conditions.
>
> The Minister may vary, suspend or revoke a sanctions permit.
>
> This Part creates an offence for contravening a condition of a sanctions permit and provides for the basis on which sanctions permits are granted.

48 Minister may issue sanctions permit

Minister may issue sanctions permit

(1) The Minister may issue, in writing, a permit (a ***sanctions permit***) to a person authorising the person (and one or more particular persons specified in the permit) to engage in conduct that may, but for the permit, contravene a provision of Part 2.

Note 1: A sanctions permit may be issued subject to conditions: see section 51.

Note 2: A person may be issued a sanctions permit more than once under this section.

Note 3: The person to whom the permit is issued is the ***permit holder***. Other persons specified in the permit are persons ***covered*** by the sanctions permit: see section 9.

(2) Without limiting subsection (1), a sanctions permit may authorise:

(a) engaging in particular conduct specified in the permit (whether on one occasion or more than one occasion, as specified in the permit); or

(b) engaging in any or all conduct:

(i) in the particular circumstances specified in the permit; or

(ii) within the period specified in the permit.

Note: The rules may authorise conduct that would otherwise contravene a provision of Part 2. Authorisations may be prescribed in relation to circumstances or in relation to classes of persons: see section 38.

Sanctions permit may be issued on own initiative or on application

(3) A sanctions permit may be issued:

(a) on the Minister's own initiative; or

(b) on application by a person under section 50.

Requirements for issuing sanctions permit

(4) The Minister must not issue a sanctions permit unless the Minister is satisfied:

(a) that it would be in the national interest to issue the permit; and

(b) of any circumstance or matter required by the rules for the issue of the permit.

(5) The Minister may have regard to any other matter the Minister considers relevant in relation to the issue of a sanctions permit, including Australia's foreign relations and Australia's foreign policy.

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Notice to persons covered by permit

(6) The Minister must ensure that reasonable steps are taken to notify any persons covered by the sanctions permit of the issuance of the permit.

Status of sanctions permit

(7) A permit issued under subsection (1) is not a legislative instrument.

Interaction with Acts Interpretation Act 1901

(8) This section does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

49 Matters to be specified in sanctions permit

A sanctions permit must specify the following:

(a) the name of the person to whom the permit is issued (the ***permit holder***);

(b) if applicable, the particular persons (other than the permit holder) who are authorised by the permit to engage in conduct (these are the persons ***covered*** by the sanctions permit);

(c) the conduct of the following persons that the permit authorises:

  (i) the permit holder;

  (ii) if applicable—persons covered by the sanctions permit;

(d) details of the conduct so authorised, including (as applicable):

  (i) the particular conduct that is authorised; and

  (ii) whether any and all conduct that may otherwise contravene a provision of Part 2 is authorised; and

  (iii) the circumstances in which the conduct is authorised; and

  (iv) the time when, or the period within which, the conduct is authorised;

(e) the day the permit comes into force and the period it remains in force;

(f) the conditions (if any) imposed on the permit.

50 Application for sanctions permit

(1) A person may apply to the Minister for a sanctions permit.

Note: Record-keeping requirements apply in relation to applications for sanctions permits: see section [*to be drafted*].

(2) The application must:

(a) be given in a form and manner (if any) approved by the Secretary; and

(b) set out the circumstances relied upon to justify the application; and

(c) be accompanied by any information or documents required by the form; and

(d) be accompanied by any information or documents prescribed by the rules for the purposes of this paragraph.

(3) If an application for a sanctions permit is made under this section, the Minister must decide to:

(a) issue the permit; or

(b) refuse to issue the permit.

(4) The Minister may have regard to any matter the Minister considers relevant in relation to the application.

(5) If the Minister decides not to issue a sanctions permit in relation to the application, the Minister must give the person written notice of the decision.

51 Conditions of sanctions permit

(1) A sanctions permit is subject to:

(a) the conditions (if any) prescribed by the rules; and

(b) any additional conditions specified by the Minister in the sanctions permit.

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Note 1: Conditions prescribed by rules made for the purposes of paragraph (a) may be varied by amending the rules. Any additional conditions of a sanctions permit specified by the Minister under paragraph (b) may be varied under section 52.

Note 2: After a sanctions permit is issued, the Minister may vary the permit to specify additional conditions, see subsection 52(2).

(2) Without limiting paragraph (1)(a) or (b), the rules may prescribe conditions, and the Minister may specify conditions:

(a) that require specified things to be done in relation to matters to which a sanctions permit relates; or

(b) that are required to be met before or after conduct is engaged in under a sanctions permit; or

(c) that relate to the particular conduct that may be engaged in under a sanctions permit; or

(d) that relate to the particular persons that may engage in conduct under a sanctions permit; or

(e) that relate to the period within which, or the time at which, conduct may be engaged in under a sanctions permit; or

(f) that relate to the circumstances in which, or the manner in which, conduct may be engaged in under a sanctions permit.

52 Variation of sanctions permit

Minister may vary sanctions permit

(1) The Minister may, in writing, vary a sanctions permit.

(2) Without limiting subsection (1), the Minister may vary a sanctions permit to:

(a) impose, vary or revoke conditions to which the permit is subject; or

(b) specify, or remove the specification of, persons who are covered by the permit; or

(c) reduce or extend the period for which the permit is in force; or

(d) authorise additional conduct that may be engaged in under the permit.

(3) A permit may be varied more than once under this section.

Limits on variation—extension of period permit is in force

(4) However:

(a) a permit may only be varied to extend the period for which the permit is in force once; and

(b) the period of extension must be no more than the period for which the permit, as initially issued, is in force.

Example: If a permit, as initially issued, is in force for a period of 12 months, the permit may only be varied to extend the period for which the permit is in force by a further period of up to 12 months.

Limits on variation—national interest etc.

(5) The Minister must not vary a sanctions permit under this section unless the Minister is satisfied:

(a) that the permit, as varied, would be in the national interest; and

(b) of any circumstance or matter required by the rules for the variation of the permit.

Note: This subsection does not limit the Minister's power to revoke a sanctions permit under section 54.

Notice of variation

(6) If a sanctions permit is varied under this section, the Minister must:

(a) give the varied permit to the permit holder; and

(b) ensure that reasonable steps are taken to notify any persons covered by the sanctions permit of the variation.

(7) The Minister must specify, in the varied permit, the day the variation takes effect (which must not be earlier than the day the varied permit is given under subsection (6)).

53 Suspension of sanctions permit

Suspension of permit

(1) The Minister may, in writing, suspend a sanctions permit.

Notice to permit holder

(2) If a sanctions permit is suspended under this section, the Minister must give the permit holder written notice of the suspension, including:

(a) the reasons for the suspension; and

(b) the period for which the suspension is in force.

Effect of suspension

(3) If a sanctions permit is suspended:

(a) the suspension takes effect:

(i) at the time the notice is given to the permit holder; or

(ii) if a later time is specified in the notice given under subsection (2)—at that later time; and

(b) the permit has no effect while the suspension is in effect; and

(c) the period for which the permit is specified to be in force continues to run during the period of suspension; and

(d) the suspension does not prevent the revocation of the permit under section 54.

Revocation of suspension

(4) If a sanctions permit is suspended under subsection (1), the Minister may revoke the suspension by written notice to the permit holder.

Notice to persons covered by permit

(5) The Minister must ensure that reasonable steps are taken to notify any persons covered by the sanctions permit of:

(a) the suspension of the permit; and

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(b) if a suspension is revoked under subsection (4)—the revocation of the suspension.

54 Revocation of sanctions permit

(1) The Minister may, by written notice given to a person, revoke a sanctions permit issued to the person under section 48.

(2) Without limiting subsection (1), the Minister may revoke a sanctions permit if the Minister is satisfied:

(a) that a condition of the permit has been contravened; or

(b) that the permit is not in the national interest; or

(c) that the permit is not required.

(3) A notice given under subsection (1) must specify the time the revocation takes effect (which must not be earlier than the time the notice is given).

(4) If a notice is given under subsection (1), the Minister must ensure that reasonable steps are taken to notify any persons covered by the sanctions permit of the revocation and the time the revocation takes effect.

(5) This section does not limit subsection 33(3) of the *Acts Interpretation Act 1901*.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* deals with revocation and variation etc. of instruments.

55 Contravention of condition of sanctions permit

A person commits an offence if:

(a) a sanctions permit authorises the person to engage in conduct; and

(b) the permit is subject to a condition; and

(c) the person does an act or omits to do an act; and

(d) the act or omission contravenes the condition.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

56 Basis on which sanctions permit is granted

A sanctions permit issued under this Part is issued on the basis that:

(a) conditions on the permit may be imposed, varied or revoked in accordance with this Part; and

(b) the permit may be varied, revoked or suspended in accordance with this Part; and

(c) the permit may be varied, revoked or suspended by or under later legislation; and

(d) no compensation is payable if:

 (i) conditions on the permit are imposed, varied or revoked as referred to in paragraph (a); or

 (ii) the permit is varied, revoked or suspended as referred to in paragraph (b) or (c).

Part 5—Information management

Division 1—Preliminary

57 Simplified outline of this Part

> The Secretary may request information from persons or entities, or enter into agreements with persons or entities to give specified information to the Secretary.
>
> The Secretary may require a person to give information or documents relevant to certain matters, including compliance with this Act or a sanctions permit.
>
> This Part also sets out various authorisations for the use and disclosure of certain information (called relevant information).
>
> Relevant information includes:
>
> (a) information obtained under this Act; and
>
> (b) information obtained or generated in the course of, or for the purposes of, administering this Act, monitoring compliance with this Act, or performing functions or exercising powers under this Act.
>
> The authorisations in this Part are authorisations for the purposes of other laws, including the *Privacy Act 1988*.

58 Authorisation for the purposes of other laws

Each provision in this Part that authorises the use or disclosure of information provides an authorisation for the purposes of the *Privacy Act 1988* and other laws.

Note: Nothing in this Part prevents the Commonwealth from making agreements or other arrangements to impose conditions on the use or disclosure of relevant information by a person or body who obtains

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the information as result of a disclosure authorised by a provision of this Part.

Division 2—Obtaining information

59 Request or agreement to give information or documents

(1) The Secretary may:

(a) request, in writing, that a person or entity give specified information to the Secretary; or

(b) enter into an agreement, in writing, with a person or entity for the person or entity to give specified information to the Secretary.

Note 1: For specification by class, see subsection 33(3AB) of the *Acts Interpretation Act 1901*.

Note 2: There is no requirement to comply with the request.

Note 3: The Secretary may require a person to give information or documents: see section 60.

(2) Without limiting subsection (1):

(a) the kinds of persons or entities that a request may be given to, or an agreement may be entered into with, include the following:

(i) Australian government entities;

(ii) foreign government entities;

(iii) bodies corporate;

(iv) international organisations;

(v) individuals; and

(b) a request or agreement may be for the person or entity to give a specified class of information from time to time.

(3) The Secretary may specify information, or a class of information, in a request or agreement under subsection (1) only if the Secretary considers that the information, or information in the class of information, is relevant to the administration of, or compliance with, this Act.

(4) A person or entity given a request under paragraph (1)(a), and any other person or entity dealing with the request on behalf of the

person or entity, may give the information specified in the request in accordance with the request.

(5) A person or entity that is a party to an agreement under paragraph (1)(b), and any other person or entity engaged in giving effect to the agreement on behalf of the person or entity, may give the information specified in the agreement in accordance with the agreement.

(6) However, for the purposes of subsections (4) and (5), if a request is given to, or an agreement is entered into with, an Australian government entity, only an acting SES employee, or a person occupying an equivalent or higher position, in the entity, may deal with the request or give effect to the agreement on behalf of the entity.

Note: The expression ***acting SES employee*** is defined in the *Acts Interpretation Act 1901*.

60 Secretary may require information or documents

(1) The Secretary may give a person a written notice requiring the person to do one or more of the things mentioned in subsection (2) if the Secretary reasonably believes that the person has information or documents that are relevant to:

(a) the operation of this Act; or

(b) monitoring compliance with this Act; or

(c) determining whether a sanctions permit is being, or has been, complied with.

Contents of notice

(2) The things the notice may require the person to do are the following:

(a) give information specified in the notice to the Secretary, or to a person specified in the notice, within the period and in the manner specified in the notice;

(b) produce documents specified in the notice to the Secretary, or to a person specified in the notice, within the period and in the manner specified in the notice.

Note: Failing to comply with a requirement of a notice is an offence: see section 61.

(3) The notice must set out the effect of the following provisions:

(a) section 61 of this Act;

(b) section 137.1 of the *Criminal Code* (about an offence for giving false or misleading information);

(c) section 137.2 of the *Criminal Code* (about an offence for producing false or misleading documents).

Minimum period for complying with notice

(4) A period specified under paragraph (2)(a) or (b) must be at least 14 days after the day the notice is given.

61 Failing to comply with notice

(1) A person commits an offence if:

(a) the person is given a notice under section 60; and

(b) the person refuses or fails to comply with a requirement of the notice.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

Exception—certain recipients

(2) Subsection (1) does not apply to the extent that the person:

(a) is or has been appointed, employed or engaged by the Commonwealth; and

(b) obtained or generated the information or documents to which the notice relates because of, or in the course of, that appointment or employment.

Note: A defendant bears an evidential burden in relation to a matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

Continuing offences

(3) If a person commits an offence against subsection (1), the maximum penalty for each day on which the offence continues is

10% of the maximum penalty that can be imposed in respect of that offence.

Note: An offence against subsection (1) is a continuing offence under section 4K of the *Crimes Act 1914*.

62 Inspection and retention of documents

Secretary may inspect and copy documents

(1) The Secretary may:
- (a) inspect a document produced under section 60; and
- (b) make and retain copies of the whole or a part of the document.

Secretary may retain documents

(2) The Secretary may take possession of a document produced under section 60, and retain it for as long as is reasonably necessary.

Certified copy of documents

(3) The person otherwise entitled to possession of a document produced under section 60 is entitled to be supplied, as soon as practicable, with a copy certified by the Secretary to be a true copy.

(4) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(5) Until a certified copy is supplied, the Secretary must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of the whole or a part of the document.

63 Self-incrimination etc.

(1) An individual is not excused from giving information or producing a document under section 60 on the ground that giving the information, or producing the document, might tend to incriminate the individual in relation to an offence.

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Note: A body corporate is not entitled to claim the privilege against self-incrimination.

(2) However:

(a) the information given or document produced; and

(b) the giving of the information or the production of the document;

are not admissible in evidence against the individual in criminal proceedings, other than:

(c) proceedings for an offence against subsection 61(1); or

(d) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* (about false or misleading information or documents) that relates to this Act; or

(e) proceedings for an offence against section 149.1 of the *Criminal Code* (which deals with obstruction of Commonwealth public officials) that relates to this Act.

(3) If, at general law, an individual would otherwise be able to claim the privilege against self-exposure to a penalty (other than a penalty for an offence) in relation to giving information or producing a document under section 60, the individual is not excused from giving the information or producing the document under section 60 on that ground.

Note: A body corporate is not entitled to claim the privilege against self-exposure to a penalty.

Division 3—Authorised uses and disclosures of information

64 Use or disclosure for administering or monitoring compliance with Act, rules or sanctions permit

An entrusted person may use or disclose relevant information in the course of, or for the purposes of:

(a) administering or monitoring compliance with this Act; or

(b) assisting another person to administer, or monitor compliance with, this Act; or

(c) monitoring whether a sanctions permit is being, or has been, complied with.

65 Use or disclosure for the purposes of other Acts

An entrusted person may use or disclose relevant information if the use or disclosure is for the purposes of the administration of an Act (other than this Act) that is administered by the Minister.

66 Disclosure to a Commonwealth entity

An entrusted person may disclose relevant information to a Commonwealth entity if the disclosure is for the purposes of assisting the entity to perform its functions or duties or exercise its powers.

67 Disclosure to a court, tribunal etc.

(1) An entrusted person may disclose relevant information to a court exercising federal jurisdiction.

(2) An entrusted person may disclose relevant information to:

(a) a court; or

(b) a tribunal, authority or person that has the power to require the answering of questions or the production of documents;

for the purposes of the enforcement of a law of the Commonwealth or to assist the court, tribunal, authority or person to make or

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review an administrative decision that is required or authorised to be made or reviewed under a law of the Commonwealth.

(3) An entrusted person may disclose relevant information to a Commonwealth, State or Territory court or tribunal as required by an order or direction of the court or tribunal.

68 Disclosure for the purposes of law enforcement

(1) An entrusted person may disclose relevant information to a body mentioned in subsection (2) if:

(a) the disclosure is for the purposes of:

(i) the enforcement of the criminal law; or

(ii) the enforcement of a law imposing a pecuniary penalty; or

(iii) the protection of public revenue; and

(b) the functions of the body include that enforcement or protection; and

(c) for a body mentioned in paragraph (2)(b) or (d)—the body has undertaken not to use or further disclose the information except in accordance with an agreement that:

(i) is in force between the Commonwealth and the State or Territory; and

(ii) applies in relation to the information.

(2) The bodies are the following:

(a) a Commonwealth entity;

(b) a State or Territory body;

(c) the Australian Federal Police;

(d) the police force or police service of a State or Territory.

69 Use or disclosure of publicly available information

An entrusted person may use or disclose relevant information if the information has already been lawfully made available to the public.

70 Use or disclosure with consent

An entrusted person may use or disclose relevant information that relates to a person if:

(a) the person has consented to the use or disclosure; and

(b) the use or disclosure is in accordance with that consent.

71 Disclosure to person to whom information relates

An entrusted person may disclose relevant information to the person to whom the information relates.

72 Disclosure to person who provided information

An entrusted person may disclose relevant information to the person who provided the information.

73 Disclosure to State or Territory body

The Secretary may disclose relevant information to a State or Territory body if:

(a) the disclosure is for the purposes of the administration of a law of a State or Territory; and

(b) the State or Territory body has undertaken not to use or further disclose the information except in accordance with an agreement that:

(i) is in force between the Commonwealth and the State or Territory; and

(ii) applies in relation to the information.

74 Disclosure to foreign governments etc. for trade and other purposes

The Secretary may disclose relevant information to:

(a) a foreign government; or

(b) an authority or agency of a foreign government; or

(c) an international organisation; or

(d) an international body of an intergovernmental character;

for the purposes of:

(e) managing Australia's trade with other countries; or

(f) managing Australia's international relations; or

(g) giving effect to Australia's international obligations.

75 Use or disclosure authorised by rules

(1) A person may use relevant information if:

(a) the person is included in a class of persons prescribed by rules made for the purposes of this paragraph; and

(b) the use is for a purpose prescribed by rules made for the purposes of this paragraph; and

(c) the information is of a kind prescribed by rules made for the purposes of this paragraph; and

(d) the use complies with any conditions prescribed by rules made for the purposes of this paragraph.

(2) A person may disclose relevant information if:

(a) the person is included in a class of persons prescribed by rules made for the purposes of this paragraph; and

(b) the disclosure is for a purpose prescribed by rules made for the purposes of this paragraph; and

(c) the information is of a kind prescribed by rules made for the purposes of this paragraph; and

(d) the disclosure complies with any conditions prescribed by rules made for the purposes of this paragraph.

(3) Rules may be made for the purposes of this section only to the extent that they are with respect to one or more legislative powers of the Parliament.

(4) Rules made for the purposes of this section must specify the legislative power or powers of the Parliament in respect of which the rules are made.

(5) The other provisions of this Part do not limit the rules that may be made for the purposes of this section.

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Part 6—Other matters

76 Simplified outline of this Part

> This Part deals with miscellaneous matters, including approved forms, delegations and rule-making powers.
>
> A review of the operation of this Act, and certain other laws, must be undertaken every 5 years. The Minister must table reports relating to such reviews in each House of the Parliament.

77 Giving information etc. in approved manner or form

The Secretary may, in writing, approve a form or manner for the purposes of a provision of this Act that provides for something to be done in a form or manner approved by the Secretary.

78 How this Act applies in relation to non-legal persons

To be drafted.

79 Delegation by the Minister

To be drafted.

80 Delegation by the Secretary

To be drafted.

81 Review of operation of this Act

(1) The Minister must cause a review of:

(a) this Act; and

(b) the *Charter of the United Nations Act 1945*; and

(c) any other laws of the Commonwealth, to the extent they relate to the imposition, administration or enforcement of sanctions under a law mentioned in paragraph (a) or (b);

to be undertaken as soon as possible after the fifth anniversary of the commencement of this section, and each fifth anniversary after that day.

(2) Without limiting subsection (1), each review must consider:

(a) the effectiveness of those laws for achieving Australia's foreign policy objectives; and

(b) whether this Act is appropriate for achieving the objects of this Act.

(3) The persons who undertake a review must give the Minister a written report on the review within 12 months of the commencement of the review.

(4) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

(5) The Minister may redact information from the report if the Minister is satisfied that:

(a) the information is personal information; or

(b) release of the information would, or could reasonably be expected to:

(i) divulge information that is confidential or commercially sensitive; or

(ii) cause damage to the security, defence or international relations of the Commonwealth; or

(iii) cause damage to relations between the Commonwealth and a State or Territory; or

(c) release of the information would divulge information that was communicated in confidence:

(i) by, or on behalf of, a foreign government entity or an international organisation; and

(ii) to the Government of the Commonwealth, to an authority of the Commonwealth, or to a person receiving the communication on behalf of the Commonwealth or an authority of the Commonwealth; or

(d) release of the information could reasonably be expected to prejudice an investigation or prosecution, or compromise any law enforcement agency's operational activities or methodologies.

82 Rules

(1) The Minister may, by legislative instrument, make rules prescribing matters:

(a) required or permitted by this Act to be prescribed by the rules; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) To avoid doubt, the rules may not do the following:

(a) create an offence or civil penalty;

(b) provide powers of:

(i) arrest or detention; or

(ii) entry, search or seizure;

(c) impose a tax;

(d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of this Act.

Incorporation of other instruments

(3) Despite subsection 14(2) of the *Legislation Act 2003*, the rules may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or other writing as in force or existing from time to time.