



# Charter of the United Nations (Sanctions — Democratic Republic of the Congo) Regulations 2005<sup>1</sup>

## Select Legislative Instrument 2005 No. 98

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Charter of the United Nations Act 1945*.

Dated 25 May 2005

P. M. JEFFERY  
Governor-General

By His Excellency's Command

ALEXANDER DOWNER  
Minister for Foreign Affairs

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## Part 1                      Introductory

### 1                      **Name of Regulations**

These Regulations are the *Charter of the United Nations (Sanctions — Democratic Republic of the Congo) Regulations 2005*.

### 2                      **Commencement**

These Regulations commence on the day after they are registered.

### 3                      **Object**

The object of these Regulations is to assist in giving effect to Resolution 1493 by restricting the supply of arms and related matériel, and the provision of assistance, advice and training related to military activities to the Democratic Republic of the Congo.

### 4                      **Extra-territorial operation of Regulations**

These Regulations have extra-territorial operation according to their terms.

### 5                      **Definitions**

In these Regulations:

*Australian aircraft* means an aircraft registered in Australia under the *Civil Aviation Act 1988*.

*Australian ship* means a ship registered in Australia under the *Shipping Registration Act 1981*.

*engage in conduct* means do an act or omit to perform an act.

*MONUC* means the United Nations Organization Mission in the Democratic Republic of the Congo.

**Regulation 5**

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***Resolution 1493*** means Resolution 1493 (2003) of the Security Council of the United Nations, adopted on 28 July 2003, as affected by Resolution 1552 (2004), adopted on 27 July 2004.

## Part 2                      Restriction on supply of arms etc

### 6                      Application of Part

This Part applies to a person in Australia or a citizen of Australia who is outside Australia.

### 7                      Restriction on sale of arms etc

- (1) A person must not engage in conduct that assists, or results in, the sale or supply of arms or related matériel to a foreign or Congolese armed group or militia operating in North Kivu, South Kivu or Ituri.

Penalty: 50 penalty units.

- (2) Subregulation (1) does not apply in relation to a sale or supply:

(a) to:

- (i) the Government of the Democratic Republic of the Congo for the use of the integrated Congolese national army and police forces; or
- (ii) MONUC or the Interim Emergency Multinational Force deployed in Bunia; or

(b) of non-lethal military equipment intended solely for humanitarian or protective use.

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

### 8                      Restriction on provision of technical assistance etc

- (1) A person must not engage in conduct that assists, or results in, the provision of assistance, advice or training relating to military activities to a foreign or Congolese armed group or militia operating in North Kivu, South Kivu or Ituri.

Penalty: 50 penalty units.

**Regulation 8**

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- (2) Subregulation (1) does not apply in relation to the provision of assistance, advice or training that:
- (a) consists of technical assistance and training relating to the supply of non-lethal military equipment intended solely for humanitarian or protective use; and
  - (b) is notified in advance to the Secretary-General through the Secretary-General's Special Representative.

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

## Part 3                      Restriction on use of                                     Australian aircraft and ships

### 9                      Use of Australian aircraft and ships for supply of                                     arms etc

- (1) The owner, pilot in command or operator of an Australian aircraft must not allow the aircraft to be used in a way that assists, or results in, the sale or supply of arms or related matériel to a foreign or Congolese armed group or militia operating in North Kivu, South Kivu or Ituri.

Penalty: 50 penalty units.

- (2) The owner, master or operator of an Australian ship must not allow the ship to be used in a way that assists, or results in, the sale or supply of arms or related matériel to a foreign or Congolese armed group or militia operating in North Kivu, South Kivu or Ituri.

Penalty: 50 penalty units.

- (3) Subregulations (1) and (2) do not apply in relation to a sale or supply:
- (a) to:
- (i) the Government of the Democratic Republic of the Congo for the use of the integrated Congolese national army and police forces; or
  - (ii) MONUC or the Interim Emergency Multinational Force deployed in Bunia; or
- (b) of non-lethal military equipment intended solely for humanitarian or protective use.

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

**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).