

# DRAFT FOR CONSULTATION

## Unlawful Occupation of Palestine Sanctions Bill

Member's Bill

### Explanatory note

#### General policy statement

This Bill is based on the existing Russia Sanctions framework. It allows Aotearoa New Zealand to implement sanctions in response to the presence of Israel (the State of Israel) in the Occupied Palestinian Territory, which the United Nations General Assembly Resolution ES-10/24 held to be unlawful. The Bill will allow for sanctions to be imposed and enforced on individuals or entities that are responsible for, associated with, or involved in the unlawful presence of Israel in the Occupied Palestinian Territory.

It will prevent individuals or entities from moving assets to Aotearoa New Zealand or using Aotearoa New Zealand's financial system to circumvent sanctions that may be imposed by other countries in the future. It will also enable Aotearoa New Zealand to freeze assets already located here.

This Bill also allows sanctions to be imposed and enforced on designated assets or services (such as trade and financial services). Sanctions could also restrict access to Aotearoa New Zealand territory.

The tenth emergency session of the United Nations General Assembly was convened in 1997 following the United Nations Security Council's failure to address Israel's presence in the Occupied Palestinian Territory.

In the tenth emergency session of the United Nations General Assembly on 18 September 2024, Aotearoa New Zealand joined 123 other member states in supporting United Nations General Assembly Resolution ES-10/24 "Advisory opinion of the International Court of Justice on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel's continued presence in the Occupied Palestinian Territory".

This resolution affirmed the advisory opinion of the International Court of Justice, called upon all States to comply with their obligations under international law, and, amongst other actions, called up all States to implement sanctions, including travel bans and asset freezes, against natural and legal persons engaged in the maintenance of Israel's unlawful presence in the Occupied Palestinian Territory, including in relation to settler violence. The Bill implements that action from the resolution.

The Bill puts Aotearoa New Zealand's condemnation of the unlawful presence of Israel in the Occupied Palestinian Territory into practical legislative changes to live up to the resolutions we supported in the United Nations General Assembly.

This Bill utilises the existing sanctions framework implemented in response to Russian aggression.

The Bill, without limiting the Minister's ability to implement further sanctions, also directs the Minister to immediately implement sanctions using the framework on the following classes of person, assets, and services:

- Ministers of the Government of Israel
- Members of the Knesset of Israel who supported either of two recent resolutions deepening Israel's unlawful occupation of Palestine
- Members of the General Staff of the Israel Defence Forces
- Trade of weapons, ammunition, military vehicles and equipment, and spare parts or accessories
- Services, including financial services, which assist with the export, manufacture, or transfer of the above military assets
- Any other assets or services of economic or strategic importance to the Government of Israel.

The Bill advances a foreign policy for Aotearoa New Zealand that is built on the foundations of peace, justice, and international solidarity.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* states when the Bill is to come into force, which is on the day after it receives the Royal assent.

## **Part 1**

### **Preliminary provisions**

*Clause 3* sets out the purpose of the Bill. The purpose is to enable the New Zealand Government to impose and enforce sanctions in response to Israel's occupation of, and military actions in, the Occupied Palestinian Territory.

*Clause 4* provides for the application of the Bill. The Bill empowers regulations that may apply in certain circumstances to action outside New Zealand by New Zealand

citizens and companies, people who are ordinarily resident in New Zealand, and dealings on New Zealand ships or aircraft.

*Clause 5* contains definitions of terms used in the Bill. The key terms are asset, service, dealing with assets, and dealing with services.

An example of an asset might be computer code or other data. A related example of a service might be coding. Examples of services provided in the Bill's definition include—

- advice, assistance, or training;
- electronic services (for example, relating to information technology);
- communications services;
- bunkering services;
- carriage services;
- financial, accounting, and insurance services (including for example, a service relating to cryptocurrency);
- military activities.

*clause 6* contains a definition of sanction, which provides that the term denotes a prohibition or restriction imposed by regulations made under the Bill. Sanctions can be prohibitions or restrictions on—

- persons travelling to, entering, or remaining in New Zealand; or
- dealing with assets; or
- dealing with services.

*Clause 7* provides that the Bill is to bind the Crown.

## **Part 2**

### **Sanctions**

*Clause 8* sets out the threshold for when the Minister may make a recommendation for regulations to be made under the Bill. The Minister may do so only if the Minister is satisfied that the regulations are necessary to respond to Israel's unlawful presence in the Occupied Palestinian Territory.

A response is appropriate if the Minister considers it demonstrates New Zealand's condemnation of the unlawful presence, including—

- if it is designed to exert pressure on Israel (or an assisting country); or
- because it complements or reinforces sanctions by other countries.

Additionally, the Minister must be satisfied that the United Nations Security Council is unlikely to act or has acted (or is likely to act) insufficiently.

*Clause 9* requires the Minister to recommend the making of regulations under *clause 9* in respect of certain specified classes of person, asset, and services as soon as practicable after the commencement of this Act.

*Clause 10* requires that regulations that prescribe a sanction must include—

- a statement of the purpose of the regulations:
- a description of the persons or class of persons, assets or class of assets, or services or class of services affected:
- a description of the relevant prohibitions or restrictions:
- a description of any duties or requirements in relation to compliance with the sanction.

*Clause 11* sets out other aspects about the scope and effect of sanctions regulations. *Clause 11(1)* allows the regulations to be of general application or to relate only to specified countries. *Clause 11(2)* provides that regulations in relation to a designated person may cover their associates (including their relatives). *Clause 11(5)* provides for the regulations to set out how assets may be preserved or managed during the time they are prohibited or restricted. The regulations may also provide that the owner can be charged for that preservation or management. *Clause 11(6)* allows sanctions relating to dealing with assets or dealing with services to modify (with or without conditions), extend, disapply, exempt, or suspend any specified rule in any other legislation.

*Clause 12* enables the Secretary to further identify persons, assets, or services described in sanctions regulations. This may be done by a designation notice. Designation notices must identify the persons, assets, or services consistently with the descriptions in the regulations, and must be required for the purpose of the regulations.

*Clause 13* provides for regulations and designation notices to have a fixed term (unless extended under that clause).

*Clause 14* allows those affected to seek an exemption for a particular specified situation, in relation to particular persons, assets, or services and for particular events or dealings. An application may be made because of humanitarian need or for any other reason.

*Clause 15* requires the Secretary of Foreign Affairs and Trade to maintain an online register listing all current sanctions and exemptions from sanctions.

*Clause 16* requires duty holders (such as registered banks and certain others) in possession or in immediate control of assets that they suspect are designated assets or assets owned or controlled (directly or indirectly) by a designated person to report that suspicion to the Commissioner of Police. The same obligation to report suspicions falls on those that are to deal with or that are dealing with services that they suspect are designated services.

Regulations made under *clause 33* may extend this obligation onto other duty holders for the purposes of the Bill.

*Clause 17* protects the identity of people making reports under *clause 16*.

*Clause 18* provides an immunity for people with obligations imposed by or under the Bill from liability in criminal and civil proceedings for any act or omission to comply with the obligations if the act or omission was reasonable and done in good faith.

### **Part 3**

#### **Enforcement**

*Clause 19* prohibits contracting out of the Bill.

*Clause 20* provides that no person is entitled to compensation or other remedy for good faith and reasonable actions or omissions by those acting under the Bill.

#### *Civil enforcement*

*Clauses 21 to 24* create a civil liability regime for people who breach a sanction (without lawful justification or reasonable excuse). The regime also applies if there are reasonable grounds to believe that a person is likely to breach a sanction.

The Attorney-General may issue a formal warning to a person to whom the regime applies or accept an enforceable undertaking from the person and then seek an order of the court if the undertaking is breached. Alternatively, the Attorney-General may seek an injunction restraining a person from breaching a sanction.

#### *Criminal enforcement*

*Clause 25* sets out offences under the Bill.

*Clause 26* provides for an additional penalty if offending involved commercial gain. A court may order a convicted person to pay up to 3 times the value of any gain.

#### *Extraterritorial application*

*Clause 27* sets out the extraterritorial jurisdiction for offences under the Bill. This is modelled on the precedent section of 7A of the Crimes Act 1961 and section 26 of the Russia Sanctions Act 2022.

#### *Attorney-General's consent*

*Clause 28* provides that the Attorney-General must consent to any prosecution under the Bill.

#### *Application of Customs and Excise Act 2018*

*Clause 29* provides that the provisions of the Customs and Excise Act 2018 that apply to prohibited imports or prohibited exports apply (with any necessary modifications) with respect to assets that are subject to, or that otherwise relate to, a sanction. The provisions apply as if the importation or exportation of the assets were prohibited under that Act.

## **Part 4**

### **Review of Act and miscellaneous provisions**

#### *Review of Act*

*Clause 30* requires a review about the operation and effectiveness of the Act after 2 years. The Minister must present a report of the review to the House of Representatives.

#### *Information gathering and sharing powers*

*Clause 31* provides powers for the Commissioner of Police to order documents to be produced. *Clause 31* is similar to the Commissioner of Police's powers in the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

*Clause 32* provides that a government agency may disclose to the Secretary certain information if the agency considers that the disclosure is necessary or desirable for specified purposes relating to sanctions.

#### *Other regulation-making powers*

*Clause 33* provides for other regulation-making powers.

#### *Consequential amendments*

*Clauses 34 to 36* consequentially amend 3 other Acts.

*Chlöe Swarbrick*

# **Unlawful Occupation of Palestine Sanctions Bill**

Member's Bill

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Unlawful Occupation of Palestine Sanctions Act **2024**.

**2 Commencement**

This Act comes into force on the day after Royal assent.

**Part 1****Preliminary provisions****3 Purpose**

The purpose of this Act is to enable New Zealand to impose and enforce sanctions in response to Israel's continuing occupation of, and military actions in, the Occupied Palestinian Territory.

**4 Application of this Act**

This Act empowers regulations that may apply in relation to—

- (a) persons travelling to, entering, or remaining in New Zealand; and
- (b) dealing with assets or dealing with services, including—
  - (i) dealing inside New Zealand with assets outside New Zealand or with services to or for persons outside New Zealand; and
  - (ii) dealing outside New Zealand by New Zealand citizens, ordinary residents, and entities (*see section 27*).

**5 Interpretation**

In this Act, unless the context otherwise requires,—

**asset**—

- (a) means everything that is capable of being owned, whether it is—
  - (i) real or personal property; or
  - (ii) in tangible or intangible form; or
  - (iii) inside or outside New Zealand; and
- (b) includes, without limitation,—

- (i) any legal or equitable estate or interest in property; and
  - (ii) the proceeds of dealing with any asset
- 

**Example**

Cryptocurrency is an example of an asset.

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**Commissioner** means the Commissioner of Police

**constable** has the meaning given in section 4 of the Policing Act 2008

**court** means the High Court

**craft** includes any aircraft, ship, or other machine or vessel, used or capable of being used for the transportation of goods or persons by air or by water

**dealing with assets**—

- (a) means using, receiving, providing, or otherwise exchanging, trading, or controlling assets in any way and by any means (whether commercially or not); and
- (b) includes, without limitation,—
  - (i) operating an asset (for example, operating a craft):
  - (ii) possessing or acquiring possession of assets:
  - (iii) transferring, holding, lending, hiring, carrying, supplying, procuring, paying for, buying, selling, importing, exporting, assigning, sharing, gifting, or disposing of, or providing access to, assets:
  - (iv) allowing or facilitating dealing with assets

**dealing with services**—

- (a) means using, receiving, providing, or otherwise exchanging, trading, or controlling services in any way and by any means (whether commercially or not); and
- (b) includes, without limitation,—
  - (i) supplying, brokering, arranging, procuring, paying for, buying, selling, gifting, or transferring services:
  - (ii) disrupting, intercepting, or disabling services, or interfering with services:
  - (iii) allowing or facilitating dealing with services

**designated asset** means an asset to which a sanction applies because the asset is described in or under, or is within a class of assets described in or under, regulations made under **section 9**

**designated person** means a person to whom a sanction applies because the person is described in or under, or is within a class of persons described in or under, regulations made under **section 9**

**designated service** means a service to which a sanction applies because the service is described in or under, or is within a class of services described in or under, regulations made under **section 9**

**designation notice** means a notice given under **section 12**

**duty holder** means—

- (a) a reporting entity within the meaning given in section 5(1) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
- (b) a person who is declared by regulations made under **section 33** to be a duty holder

**entity** means any of the following:

- (a) a company or other body corporate;
- (b) a corporation sole;
- (c) in relation to a trust,—
  - (i) if the trust has only 1 trustee, the trustee acting in the person's capacity as trustee;
  - (ii) if the trust has more than 1 trustee, the trustees acting jointly in their capacity as trustees;
- (d) an unincorporated body (including a partnership);
- (e) an organisation or association set up for a political purpose;
- (f) a person or body that performs or exercises a public function, duty, or power conferred on that person or body by Israel or by another country that may be assisting Israel (including, for example, military or information technology functions, duties, or powers)

**government agency** has the meaning given in section 5(1) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

**Israel** means the State of Israel

**Ministry** means the Ministry of Foreign Affairs and Trade

**New Zealand citizen** has the meaning given in section 4 of the Immigration Act 2009

**Occupied Palestinian Territory** means the West Bank and Gaza, including East Jerusalem

**person** means—

- (a) an individual; or
- (b) an entity

**prescribed** means prescribed in or under regulations made under this Act

**privileged communication** has the meaning given in section 42 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

**sanction** has the meaning given in **section 6**

**Secretary** means the Secretary of Foreign Affairs and Trade  
**service**—

- (a) means a service of any kind, whether dealt with inside or outside New Zealand; and
- (b) includes, without limitation,—
  - (i) advice, assistance, or training:
  - (ii) an electronic service (for example, relating to information technology):
  - (iii) a communications service:
  - (iv) a bunkering service:
  - (v) a carriage service:
  - (vi) a financial, accounting, or insurance service (including, for example, a service relating to cryptocurrency):
  - (vii) a military activity:
  - (viii) a service that facilitates, or is provided in relation to, any activity.

Compare: 2022 No 6 s 5

## **6 Meaning of sanction**

In this Act, **sanction** means a prohibition or restriction imposed by or under this Act in relation to—

- (a) persons travelling to, entering, or remaining in New Zealand; or
- (b) dealing with assets; or
- (c) dealing with services.

Compare: 2022 No 6 s 6

## **7 Act binds the Crown**

This Act binds the Crown.

# **Part 2 Sanctions**

## **8 Threshold for recommending sanction by regulation**

- (1) The Minister may recommend that regulations be made under **section 9** only if the Minister is satisfied that the regulations are appropriate to respond to Israel's unlawful presence in the Occupied Palestinian Territory.

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### **Example**

Examples of a response are—

- sanctioning persons responsible for, or associated with, the unlawful presence; or

- 
- sanctioning persons, assets, or services involved (or that may be involved) in the unlawful presence; or
  - sanctioning persons, assets, or services that will have, currently have, or have had some economic or strategic relevance or connection to the unlawful presence; or
  - sanctioning persons from, or assets or services to or from, a country participating in the unlawful presence.
- 
- (2) A response is appropriate if the Minister considers it demonstrates New Zealand's condemnation of the unlawful presence, including by either or both of the following:
- (a) being designed to exert pressure on Israel (or a country that may be assisting Israel), including by interrupting economic relations; or
  - (b) because it complements or reinforces sanctions by other countries.
- (3) The Minister must also be satisfied that the United Nations Security Council—
- (a) is unlikely to act in response to the unlawful presence under the Charter of the United Nations (whether because of the exercise of a veto by a permanent member of the Security Council or otherwise); or
  - (b) has acted (or is likely to act) in response to the unlawful presence, but the action is (or may be) insufficient.

Compare: 2022 No 6 s 8

### *Regulations and designation notices*

## **9 Regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations imposing sanctions.
- (2) The regulations must—
- (a) include a statement of their purpose; and
  - (b) describe any of the following, or any classes of the following, to which the regulations apply:
    - (i) persons;
    - (ii) assets;
    - (iii) services; and
  - (c) set out the prohibitions or restrictions imposed on or in relation to—
    - (i) designated persons, which may be,—
      - (A) in the case of individuals who are not New Zealand citizens or holders of a residence class visa, prohibitions or restrictions on travelling to or entering New Zealand or prohibitions or restrictions on remaining in New Zealand; or

- (B) prohibitions or restrictions on or in relation to dealing with specified assets by, with, for, or from designated persons; or
  - (C) prohibitions or restrictions on or in relation to dealing with specified services by, with, for, or from designated persons; and
  - (ii) specified dealing with designated assets; and
  - (iii) specified dealing with designated services; and
- (d) set out any duties or requirements in relation to compliance with the sanction (for example, a duty to register with the Ministry before engaging in dealings that are, or may be, dealings to which the sanction applies).
- (3) In this section, **holder** and **residence class visa** have the same meanings as in section 4 of the Immigration Act 2009.
- (4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2022 No 6 s 9

## **10 Minister must recommend certain sanctions be imposed**

- (1) The Minister must recommend the making of regulations under **section 9** imposing sanctions on the following classes of person:
  - (a) a person who is a Minister in the Government of Israel;
  - (b) a person who, while a member of the Knesset of Israel, voted in favour of 1 or both of the following:
    - (i) the Law to Extend the Emergency Regulations (Judea and Samaria—Jurisdiction and Legal Aid 5727-1967 in January 2023;
    - (ii) the Implementation of the Disengagement Plan (Amendment No. 7), 5783-2023 in March 2023;
  - (c) a person who is a member of the general staff of the Israel Defence Forces.
- (2) The Minister must recommend the making of regulations under **section 9** imposing sanctions in respect of the following classes of asset and services:
  - (a) arms or related materiel including, but not limited to, weapons, ammunition, military vehicles and equipment, and spare parts and accessories for any of those things;
  - (b) services (including but not limited to technical, brokering, financial and investment services, and the transfer of financial resources on certain technology) which assist with or relate to the supply, sale, export, transfer, manufacture, maintenance, or use of the assets listed in **paragraph (a)**:

- (c) any other asset or service that the Minister considers is of economic or strategic importance to the Government of Israel.
- (3) **Subsections (1) and (2):**
  - (a) do not limit the generality of **section 9**; and
  - (b) prevail over **section 8** to the extent that the Minister is not satisfied of the matters described in that section at the time of making the recommendation.
- (4) The Minister must make the recommendations required by **subsections (1) and (2)** as soon as practicable after the commencement of this Act.

## **11 Scope and effect of regulations made under section 9**

- (1) Regulations may apply generally or only in relation to a specified country or specified countries.
- (2) Regulations in relation to a designated person may also describe a class of persons who are associates of, or relatives of, the designated persons (**associates**) and apply to those associates as if they were designated persons.
- (3) Regulations that prohibit or restrict a designated person from travelling to or entering New Zealand are an exclusion for the purposes of section 15(1)(e) of the Immigration Act 2009.
- (4) Regulations that prohibit a designated person from remaining in New Zealand—
  - (a) make the person liable for deportation under section 157 of the Immigration Act 2009; and
  - (b) are a sufficient reason for the purposes of section 157(1) of that Act; and
  - (c) mean that a deportation liability notice must be served on the person under section 170 of that Act; and
  - (d) mean that section 157(2) of that Act does not apply to the person; and
  - (e) for the purposes of Parts 6 and 9 of that Act, mean that the liability for deportation and the reason for any detention and monitoring arise under that Act.
- (5) Regulations that prohibit or restrict dealing with assets may—
  - (a) set out how the assets may or must be held or managed during the time they are prohibited or restricted; and
  - (b) provide that the costs of this be charged to the owner.
- (6) Regulations may, in relation to any specified provision in any other legislation,—
  - (a) modify it and apply the modifications (with or without conditions); or
  - (b) extend it; or
  - (c) disapply it, with or without modifications or replacement; or

- (d) exempt any person from it; or
- (e) suspend it.

Compare: 2022 No 6 s 10

## **12 Designation notice identifying persons, assets, or services described in regulations**

- (1) If desirable to assist the users of regulations made under **section 9**, the Secretary may give (as provided in **subsection (2)**) further details of who or what is covered by a description in the regulations.
- (2) The Secretary may, by notice, in relation to a description, designate—
  - (a) a person meeting that description, or within the class described, as a designated person; or
  - (b) an asset meeting that description, or within the class described, as a designated asset; or
  - (c) a service meeting that description, or within the class described, as a designated service.
- (3) The Secretary must not give a designation notice unless the Secretary is satisfied that the notice—
  - (a) identifies persons, assets, or services in a way that is consistent with the description in regulations made under **section 9**; and
  - (b) is required for the purpose of the regulations.
- (4) A designation notice given under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2022 No 6 s 11

## **13 Regulations and designation notices to have fixed term unless extended**

- (1) Regulations and designation notices must include a date on which they are revoked, and that date must be the earliest of—
  - (a) the close of the day that is 3 years after the date on which the regulations or notice came into force; and
  - (b) a date specified in the regulations or notice.
- (2) A designation notice is revoked on the date on which the regulation to which it relates is revoked.
- (3) However, despite **subsection (1)**, on or before the revocation date, that date may be extended (by amending it in the regulations or notice) if,—
  - (a) in relation to regulations, the Minister recommends an extension because the Minister is satisfied that the regulations are still required for the purpose of the regulations;
  - (b) in relation to a designation notice, the Secretary is satisfied that the designation—

- (i) currently identifies persons, assets, or services in a way that is consistent with the description in regulations made under **section 9**; and
  - (ii) is still required for the purpose of the regulations.
- (4) The extended revocation date must be the earliest of—
  - (a) the close of the day that is 3 years after the date on which the extension came into effect; and
  - (b) a date specified in the regulations or notice; and
  - (c) in the case of a notice, the date on which the regulation to which it relates is revoked.

Compare: 2022 No 6 s 12

*Applications for revocation, amendment, or exemption*

**14 Applications for revocation, amendment, or exemption**

- (1) Any person may apply to the Minister, on the basis of humanitarian need or for any other reason, to request—
  - (a) that the Minister recommend the amendment or revocation of a regulation made under **section 9**; or
  - (b) that the Minister ask the Secretary to amend or revoke a designation notice; or
  - (c) an exemption from a sanction for a particular specified situation, in relation to—
    - (i) particular persons, assets, or services; and
    - (ii) particular events or dealings in relation to those persons, assets, or services.
- (2) An application must—
  - (a) be in writing; and
  - (b) include the applicant's contact details; and
  - (c) set out the circumstances relied on by the applicant to justify the revocation, amendment, or exemption.
- (3) The Minister must decide the application in a way that is consistent with the purpose of the regulations providing for the sanction.
- (4) The Minister must decide the application as soon as is reasonably practicable after receiving it and must notify the applicant of the decision.
- (5) The Minister is not required to consider an application for the amendment or revocation of a regulation or a designation notice if the applicant, or any other person on behalf of the applicant, has made another application in relation to substantially the same matter within 6 months preceding the application.

Compare: 2022 No 6, s 13

*Sanctions register***15 Sanctions register**

- (1) The Secretary must maintain a register that lists all current sanctions under this Act, including—
  - (a) descriptions of any designated person, designated asset, and designated service (or any classes of those things), and of any prohibited or restricted dealings; and
  - (b) exemptions granted under **section 14**.
- (2) The Secretary must publish the register on an Internet site maintained by, or on behalf of, the Ministry.
- (3) Any failure to comply with this section does not invalidate the sanction or exemption involved.

Compare: 2022 No 6 s 14

*Duty to report suspicions***16 Duty to report suspicions**

- (1) A duty holder in possession or in immediate control of assets that the duty holder suspects on reasonable grounds are (or may be)—
  - (a) designated assets; or
  - (b) assets owned or controlled, directly or indirectly, by a designated person—

must, as soon as practicable after forming that suspicion (but no later than 3 working days afterwards), report it to the Commissioner.
- (2) A duty holder that is to deal with or is dealing with services that the duty holder suspects on reasonable grounds are, or may be,—
  - (a) designated services; or
  - (b) services in relation to a designated person—

must, as soon as practicable after forming that suspicion (but no later than 3 working days afterwards), report it to the Commissioner.
- (3) A report under **subsection (1) or (2)** must be provided in any prescribed manner and contain any prescribed details.
- (4) However, if the urgency of the situation requires, a report under **subsection (1) or (2)** may be made orally to a constable or an employee of the Police but, in that case, the duty holder must, as soon as practicable (but no later than 3 working days afterwards), provide the Commissioner with a report in any prescribed manner that contains any prescribed details.
- (5) The Commissioner—

- (a) must disclose any information reported under this section to the Ministry; and
  - (b) may disclose any information reported under this section to any government agency for the purposes of this Act and regulations made under it if satisfied that the agency has a proper interest in receiving the information.
- (6) Nothing in this section requires a lawyer to disclose any privileged communication.

Compare: 2022 No 6 s 15

*Protection for persons with obligation or duty imposed by or under this Act*

**17 Protection of identity of persons making reports**

- (1) This section applies to the following information:
- (a) any report under **section 16**:
  - (b) any information the disclosure of which will identify, or is reasonably likely to identify, any person—
    - (i) as a person who, in the person's capacity as a worker or agent of a duty holder, has been involved with assets or services that were the subject of a report under **section 16**; or
    - (ii) as a person who has provided a report under **section 16**:
  - (c) any information that discloses or is reasonably likely to disclose the existence of a report under **section 16**.
- (2) The Commissioner, constables, and employees of the Police or the Ministry must not disclose any information to which this section applies except for the purposes of the enforcement of this Act or any regulations made under this Act, or for the purposes of the detection, investigation, or prosecution of an offence against **section 25**.
- (3) Nothing in **subsection (2)** limits the provision of assistance under the Mutual Assistance in Criminal Matters Act 1992.
- (4) No person may disclose, in any judicial proceeding (within the meaning of section 108 of the Crimes Act 1961), any information to which this section applies unless the Judge or the person presiding at the proceeding is satisfied that the disclosure of the information is necessary in the interests of justice.

Compare: 2022 No 6 s 16

**18 Protection for persons with obligation or duty imposed by or under this Act**

A person with an obligation or a duty imposed by or under this Act is immune from liability in criminal and civil proceedings for any act done or omitted to be done to comply with that obligation or duty if the act or omission—

- (a) was in good faith; and
- (b) was reasonable in the circumstances.

Compare: 2022 No 6 s 17

## **Part 3**

### **Enforcement**

#### **19 No contracting out**

- (1) A sanction applies despite any contract or other agreement.
- (2) A provision in a contract or other agreement has no effect if it apparently requires a person to do either or both of the following:
  - (a) deal with assets or deal with services in a way that breaches a sanction:
  - (b) not make a report under **section 16** or withdraw a report.

Compare: 2022 No 6 s 18

#### **20 No entitlement to compensation**

No person is entitled to compensation or any other remedy for good faith and reasonable actions or omissions by the Minister, the Secretary, the Commissioner, constables, or others acting in pursuance or intended pursuance of their duties, functions, or powers under this Act.

Compare: 2022 No 6 s 19

### *Civil enforcement*

#### **21 Civil enforcement**

- (1) This section and **section 22** apply to a person if the Attorney-General—
  - (a) considers that the person, without lawful justification or reasonable excuse, has breached a sanction; or
  - (b) considers that the person is likely to breach a sanction.
- (2) The Attorney-General may—
  - (a) issue a formal warning to the person (in any prescribed manner and containing any prescribed information):
  - (b) accept an enforceable undertaking from the person under **section 22**:
  - (c) seek an order under **section 23** against the person for breach of an enforceable undertaking:
  - (d) seek an injunction under **section 24** against the person.

Compare: 2022 No 6 s 20

#### **22 Enforceable undertakings**

- (1) The Attorney-General may accept a written undertaking given by a person in connection with the person's compliance with a sanction.

- (2) The person may withdraw or vary the undertaking at any time, but only with the consent of the Attorney-General.

Compare: 2022 No 6 s 21

## **23 Enforcement of undertakings**

- (1) If the Attorney-General considers that a person who gave an undertaking that has been accepted under **section 22** has breached it, the Attorney-General may apply to the court for an order under **subsection (2)**.
- (2) The court may, if satisfied that a person has breached an undertaking, make any or all of the following orders:
- (a) an order directing the person to comply with any of the terms of the undertaking;
  - (b) an order directing the person to pay to the Crown an amount up to the amount of any financial benefit that the person has obtained directly or indirectly from, and that is reasonably attributable to, the breach;
  - (c) any order that the court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach.

Compare: 2022 No 6 s 22

## **24 Injunctions**

- (1) After an application by the Attorney-General, the court may grant an injunction restraining a person from breaching a sanction.
- (2) The injunction may be an interim one if the court thinks that is desirable, but the court must not—
- (a) require the Crown to give an undertaking as to damages as a condition of granting the interim injunction; or
  - (b) take into account that the Crown is not required to give an undertaking as to damages.
- (3) **Subsections (1) and (2)** apply whether or not the person—
- (a) intends to engage again, or to continue to engage, in conduct that breaches a sanction;
  - (b) has previously engaged in such conduct.
- (4) The powers in this section do not limit any other powers of the court relating to the granting of injunctions.

Compare: 2022 No 6 s 23

*Criminal enforcement***25 Offences**

- (1) A person commits an offence if the person, without lawful justification or reasonable excuse, knowingly or recklessly breaches a sanction.
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 7 years or a fine not exceeding \$100,000, or both; and
  - (b) in the case of an entity, to a fine not exceeding \$1 million.
- (3) A person commits an offence if the person, in connection with an application under **section 14**, provides (whether at the time of the application or not) any information or document that—
  - (a) includes anything that the person knows is false or misleading in a material particular; or
  - (b) omits anything the omission of which the person knows makes the information or document false or misleading in a material particular.
- (4) A person who commits an offence against **subsection (3)** is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 7 years or a fine not exceeding \$100,000, or both; and
  - (b) in the case of an entity, to a fine not exceeding \$1 million.
- (5) A person commits an offence if the person—
  - (a) knowingly fails to provide a report required under **section 16**; or
  - (b) includes anything in a report required under **section 16** that the person knows is false or misleading in a material particular; or
  - (c) omits anything from a report required under **section 16** the omission of which the person knows makes the report false or misleading in a material particular.
- (6) A person who commits an offence against **subsection (5)** is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 1 year or a fine not exceeding \$20,000, or both; and
  - (b) in the case of an entity, to a fine not exceeding \$200,000.
- (7) A person who knowingly breaches **section 17(4)** commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (8) If, in proceedings against an entity for an offence under this section, it is necessary to establish the state of mind of the entity, it is sufficient to show that 1

individual working for the entity, acting within the scope of the person's actual or apparent authority, had that state of mind.

Compare: 2022 No 6 s 24

## **26 Additional penalty for offence involving commercial gain**

- (1) In addition to any penalty the court may impose under **section 25**, the court may, on convicting a person of an offence specified in that section, order the person to pay an amount not exceeding 3 times the value of any commercial gain resulting from the commission of that offence if the court is satisfied that the offence was committed in the course of producing a commercial gain.
- (2) The value of any gain must be assessed by the court, and is recoverable in the same manner as a fine.

Compare: 2022 No 6 s 25

### *Extraterritorial application*

## **27 Extraterritorial jurisdiction for offences**

- (1) Even if the acts or omissions alleged to constitute an offence against **section 25** occurred wholly outside New Zealand, proceedings may be brought for an offence under that section—
  - (a) if the person to be charged—
    - (i) is a New Zealand citizen; or
    - (ii) is ordinarily resident in New Zealand; or
    - (iii) is an entity incorporated or registered under New Zealand law; or
  - (b) if any of the acts or omissions are alleged to have occurred on board—
    - (i) a ship registered, or required to be registered, under the Ship Registration Act 1992; or
    - (ii) a ship used as a ship of the New Zealand Defence Force; or
    - (iii) an aircraft registered, or required to be registered, in New Zealand under the Civil Aviation Act 1990; or
    - (iv) an aircraft for the time being used as an aircraft of the New Zealand Defence Force; or
    - (v) an aircraft that is leased to a lessee whose principal place of business is in New Zealand, or who is a New Zealand citizen or a person ordinarily resident in New Zealand.
- (2) The following sections of the Crimes Act 1961 do not apply in respect of an offence against **section 25**:
  - (a) section 8 (which relates to jurisdiction in respect of crimes on ships or aircraft beyond New Zealand):

- (b) section 400 (which requires the consent of the Attorney-General to proceedings in certain cases for offences on ships or aircraft).
- (3) Nothing in this section limits the application of **section 25** in respect of—
  - (a) acts or omissions that occurred wholly in New Zealand; or
  - (b) the application of section 7 of the Crimes Act 1961 to the occurrence in New Zealand of—
    - (i) an act or omission forming part of an offence; or
    - (ii) an event necessary to the completion of an offence; or
  - (c) the application of section 8A of the Crimes Act 1961.
- (4) For the purposes of this section, **ordinarily resident in New Zealand** has the same meaning as in section 4 of the Crimes Act 1961.

Compare: 2022 No 6 s 26

#### *Attorney-General's consent*

### **28 Attorney-General's consent required**

- (1) No charging document may be filed against any person in relation to an offence against **section 25** unless the Attorney-General consents to the filing of the charging document.
- (2) Even if the consent of the Attorney-General has not yet been obtained under **subsection (1)**,—
  - (a) a person alleged to have committed an offence may be arrested, or a warrant for their arrest may be issued and executed, and the person may be remanded in custody or on bail; but
  - (b) no further or other proceedings may be taken until the consent has been obtained.

Compare: 2022 No 6 s 27

#### *Application of Customs and Excise Act 2018*

### **29 Application of Customs and Excise Act 2018**

All the provisions of the Customs and Excise Act 2018 that apply with respect to prohibited imports or to prohibited exports (except sections 388 to 391 of that Act) apply with respect to assets that are subject to, or that otherwise relate to, a sanction—

- (a) as if the importation or exportation of the assets were prohibited by or under section 96 or 97 of that Act; and
- (b) with any necessary modifications.

Compare: 2022 No 6 s 28

## **Part 4**

### **Review of Act and miscellaneous provisions**

#### *Review of Act*

#### **30 Review of Act**

- (1) The Minister must, as soon as practicable after the expiry of 2 years from the commencement of this Act,—
  - (a) commence a review of the operation and effectiveness of the Act; and
  - (b) prepare a report on that review.
- (2) The Minister must present the report to the House of Representatives as soon as practicable after it has been completed.

Compare: 2022 No 6 s 29

#### *Information gathering and sharing powers*

#### **31 Commissioner's powers**

- (1) The Commissioner may—
  - (a) order any duty holder to produce, or provide access to, all records, documents, or information that are relevant to analysing or investigating information received by the Commissioner under this Act, with or without a court order; and
  - (b) share information and intelligence with government agencies for the purposes of this Act and regulations made under it.
- (2) Nothing in this section requires any person to disclose any privileged communication.

Compare: 2022 No 6 s 30

#### **32 Power to use and disclose information supplied or obtained under other enactments for purposes of this Act**

- (1) A government agency may disclose to the Secretary any information supplied or obtained under an enactment listed in **subsection (3)**, if the government agency considers that the disclosure of that information is necessary or desirable for any of the purposes described in **subsection (2)**.
- (2) The purposes are to enable the Secretary—
  - (a) to advise the Minister about making (or considering whether to make, amend, or revoke) regulations:
  - (b) to advise the Minister about enforcing a sanction:
  - (c) to work with the Attorney-General or the Commissioner in relation to enforcing a sanction:

- (d) to make a designation notice (or consider whether to make, amend, or revoke a designation notice):
  - (e) to advise the Minister about an application under **section 14**:
  - (f) to work with the Attorney-General or the Commissioner to ensure compliance with this Act and any regulations made under this Act.
- (3) The enactments referred to in **subsection (1)** are—
  - (a) the Anti-Money Laundering and Countering Financing of Terrorism Act 2009:
  - (b) the Charities Act 2005:
  - (c) the Companies Act 1993:
  - (d) the Customs and Excise Act 2018:
  - (e) the Customs and Excise Act 1996:
  - (f) the Deposit Takers Act 2023:
  - (g) the Financial Markets Authority Act 2011:
  - (h) the Financial Markets Conduct Act 2013:
  - (i) the Financial Service Providers (Registration and Dispute Resolution) Act 2008:
  - (j) the Financial Transactions Reporting Act 1996:
  - (k) the Fisheries Act 1996:
  - (l) the Gambling Act 2003:
  - (m) the Goods and Services Tax Act 1985:
  - (n) the Immigration Act 2009:
  - (o) the Income Tax Act 2007:
  - (p) the Insurance (Prudential Supervision) Act 2010:
  - (q) Parts 1 to 7 of the Intelligence and Security Act 2017:
  - (r) the KiwiSaver Act 2006:
  - (s) the Non-bank Deposit Takers Act 2013:
  - (t) the Overseas Investment Act 2005:
  - (u) the Criminal Proceeds (Recovery) Act 2009:
  - (v) the Racing Industry Act 2020:
  - (w) the Real Estate Agents Act 2008:
  - (x) the Reserve Bank of New Zealand Act 1989:
  - (y) the Reserve Bank of New Zealand 2021:
  - (z) the Secondhand Dealers and Pawnbrokers Act 2004:
  - (aa) the Tax Administration Act 1994:

- (ab) the Terrorism Suppression Act 2002:
- (ac) any other Act prescribed by regulations made under this Act.

Compare: 2022 No 6 s 31

### *Other regulation-making powers*

## **33 Other regulation-making powers**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for any or all of the following purposes:
  - (a) providing for anything this Act says may or must be provided for by regulations:
  - (b) prescribing the circumstances in which compensation may be payable to persons in relation to assets or services that are adversely affected by the imposition of sanctions, including the conditions applying to, the eligibility for, and the method of calculating the amount of, the compensation:
  - (c) declaring a person or class of persons to be a duty holder (and the circumstances and conditions in which a person or class of persons is to be a duty holder) for the purposes of **section 16**, because the Minister, when recommending the regulations, considers such persons are likely to—
    - (i) come into possession or immediate control of relevant assets; or
    - (ii) provide relevant services:
  - (d) prescribing the information to be included in a report required under **section 16** and the manner in which that report must be provided:
  - (e) prescribing the information to be included in a formal warning issued under **section 21(2)(a)** and the manner in which that warning must be issued:
  - (f) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.
- (2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2022 No 6 s 32

### *Consequential amendments*

## **34 Anti-Money Laundering and Countering Financing of Terrorism Act 2009 amended**

- (1) This section amends the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

- (2) In section 5(1), definition of **law enforcement purposes**, paragraph (b), after subparagraph (vii), insert:

(viii) the Unlawful Occupation of Palestine Sanctions Act **2024**:

- (3) In section 140(2), after paragraph (ta), insert:

(tb) the Unlawful Occupation of Palestine Sanctions Act **2024**:

- (4) In section 142(kb), after “the Russia Sanctions Act 2022” insert and “the Unlawful Occupation of Palestine Sanctions Act **2024**”.

### **35 Companies Act 1993 amended**

- (1) This section amends the Companies Act 1993.
- (2) In section 366(1B), definition of **law enforcement purposes**, after paragraph (ea), insert:
- (eb) the enforcement of the Unlawful Occupation of Palestine Sanctions Act **2024**:

### **36 Tax Administration Act 1994 amended**

- (1) This section amends the Tax Administration Act 1994.
- (2) In Schedule 7, Part C, after clause 23A, insert—

#### **23AB Government agencies: Israel sanctions purposes**

- (1) Section 18 does not prevent the Commissioner disclosing to the Ministry of Foreign Affairs and Trade or to another government agency information supplied or obtained under an Act referred to in **section 32** of the Unlawful Occupation of Palestine Sanctions Act **2024** that is necessary or desirable for the purposes of that section.
- (2) In this clause, **government agency** has the meaning given in section 5(1) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.