Charter of the United Nations
(Sanctions — Iraq) Regulations 2006

Statutory Rules 2003 No. 97 as amended

made under the

Customs Act 1901, the Air Navigation Act 1920, the
Charter of the United Nations Act 1945 and the Migration
Act 1958

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2. *Charter of the United Nations (Sanctions — Iraq) Regulations 2006*
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Part 1 Preliminary

1 Name of Regulations [see Note 1]

These Regulations are the *Charter of the United Nations (Sanctions — Iraq) Regulations 2006.*

2 Commencement [see Note 1]

These Regulations commence on gazettal.

3 Definitions

In these Regulations:

*arms or related matériel* includes:

(a) weapons; and
(b) ammunition; and
(c) military vehicles and equipment; and
(d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and
(e) paramilitary equipment.

*Note* Paramilitary equipment includes parts and accessories designed or adapted for use in, or with, paramilitary equipment mentioned in paragraphs (a) to (c) of the definition of *paramilitary equipment* (see paragraph (f) of that definition.

*asset* means an asset described in the definition of *asset* in section 14 of the Charter Act.

*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.*

*Charter Act* means the *Charter of the United Nations Act 1945.*

*Committee* means the committee established under paragraph 1 of Resolution 1518.

*engage in conduct* means do an act or omit to do an act.
**government asset** means the following assets:

(a) an asset of the previous government of Iraq that was located outside Iraq on the date of adoption of Resolution 1483;

(b) an asset that has been removed from Iraq, or acquired, by:
   (i) a senior Iraqi official; or
   (ii) a member of the immediate family of a senior Iraqi official; or
   (iii) an entity owned or controlled, directly or indirectly by a body or person mentioned in subparagraph (i) or (ii); or
   (iv) a person acting on behalf of, or at the direction of, a body or person mentioned in subparagraph (i), (ii) or (iii); or
   (v) a person or entity listed by the Committee; or
   (vi) a person acting on behalf of, or at the direction of, a body or person mentioned in subparagraph (v);

(c) an asset derived or generated from an asset mentioned in paragraph (a) or (b).

**item of cultural property** includes an item of:

(a) archaeological importance; or
(b) historical importance; or
(c) cultural importance; or
(d) rare scientific importance; or
(e) religious importance.

**multinational force** has the same meaning as in Resolution 1546.

**paramilitary equipment** means any of the following:

(a) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes;

(b) body armour, including:
   (i) bullet-resistant apparel; and
   (ii) bullet-resistant pads; and
   (iii) protective helmets;

(c) handcuffs, leg irons and other devices used for restraining prisoners;
Regulation 4

(d) riot protection shields;
(e) whips;
(f) parts and accessories designed or adapted for use in, or with, equipment mentioned in paragraphs (a) to (e).

previous government of Iraq means:
(a) the government or governments of Iraq led by former President Saddam Hussein; and
(b) a state body, corporation or other body or agency in relation to that government.

protective clothing includes protective military jackets and helmets.


senior Iraqi official means the following persons:
(a) former President Saddam Hussein;
(b) another person who was a senior official of the previous government of Iraq.

transfer includes:
(a) the transfer of title; and
(b) trade.

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

5 Application of Regulations
These Regulations, except regulation 9C, apply to a person in Australia or a citizen of Australia who is outside Australia.
Part 2 General provisions relating to Iraq

7 Cultural property
A person must not transfer an item of cultural property that:
(a) was illegally removed from a place in Iraq (including the Iraq National Museum or the National Library of Iraq) after the adoption of Resolution 661; or
(b) the person ought reasonably to suspect was illegally removed from a place in Iraq (including the Iraq National Museum or the National Library of Iraq) after the adoption of Resolution 661.
Penalty: 50 penalty units.

8 Return of cultural property
A person who is in possession or control of an item of cultural property mentioned in regulation 7 must, as soon as practicable, give the property to:
(a) a member of the personnel of the United Nations; or
(b) a member of the Defence Forces; or
(c) a representative of the Authority mentioned in Resolution 1483; or
(d) a representative of the Iraq National Museum or the National Library of Iraq; or
(e) a representative of the place from which the item was removed, or is reasonably suspected of having been removed; or
(f) a member of the Australian Federal Police, or of a police force of a State or Territory.
Penalty: 50 penalty units.
Note The Commonwealth will make arrangements to ensure that a person mentioned in paragraph (b) or (f) will arrange for the safe return of an item to the appropriate institution in Iraq.
9 Status of petroleum, petroleum products, and natural gas originating in Iraq

(1) An action, suit or proceeding does not lie in respect of anything done, or omitted to be done, in relation to:
   (a) petroleum that originates in Iraq; or
   (b) another petroleum product that originates in Iraq; or
   (c) natural gas that originates in Iraq;
   at any time before the title in the petroleum, petroleum product or natural gas passes to the initial purchaser of the petroleum, petroleum product or natural gas.

(2) This regulation ceases to have effect on the earlier of:
   (a) the end of 31 December 2007; and
   (b) the time, before the end of 31 December 2007, that the Security Council declares to be the time at which it is no longer necessary for the arrangement described in subregulation (1) to operate.
Part 2A Restriction on supply of arms etc

9A 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 materiel to any recipient in Iraq.

Penalty: 50 penalty units.

(2) Subregulation (1) does not apply in relation to the sale or supply of an item to:
   (a) the Government of Iraq; or
   (b) the multinational force.

9B 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 any recipient in Iraq.

Penalty: 50 penalty units.

(2) Subregulation (1) does not apply in relation to the provision of assistance, advice or training to:
   (a) the Government of Iraq; or
   (b) the multinational force.

9C 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 materiel to any recipient in Iraq.

Penalty: 50 penalty units.
Regulation 9B

(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 materiel to any recipient in Iraq.

Penalty: 50 penalty units.

(3) Subregulations (1) and (2) do not apply in relation to the sale or supply of an item to:
   (a) the Government of Iraq; or
   (b) the multinational force.
Part 3  Freezing government assets

10 Dealing with government assets

(1) A person commits an offence if:
   (a) the person holds a government asset; and
   (b) the person:
      (i) uses or deals with the government asset; or
      (ii) allows the government asset to be used or dealt with; or
      (iii) facilitates the use of the government asset or dealing with the government asset; and
   (c) the use or dealing is not in accordance with a notice under regulation 12.

Penalty: 50 penalty units.

(2) Strict liability applies to the circumstance that the use or dealing with the government asset is not in accordance with a notice under regulation 12.

(3) It is a defence if the person proves that the use or dealing was solely for the purpose of preserving the value of the government asset.

(4) Section 15.1 of the Criminal Code (extended geographical jurisdiction — category A) applies to an offence against subregulation (1).

11 Offence — giving an asset to a person or entity

(1) A person commits an offence if:
   (a) the person, directly or indirectly, makes a government asset available to a person or entity; and
   (b) the person or entity to whom the government asset is made available is not the Development Fund for Iraq; and
Regulation 12

(c) the making available of the government asset is not in accordance with a notice under regulation 12.

Penalty: 50 penalty units.

(2) Strict liability applies to the circumstance that the making available of the asset is not in accordance with a notice under regulation 12.

(3) Section 15.1 of the Criminal Code (extended geographical jurisdiction — category A) applies to an offence against subregulation (1).

12 Authorised dealings

(1) The owner or holder of a government asset may apply in writing to the Minister for permission to use or deal with the government asset in a specified way.

(2) The owner or holder of a government asset may apply in writing to the Minister for permission to make the government asset available to a person or entity specified in the application.

(3) The Minister may, by written notice:
   (a) permit a government asset specified in the notice to be used or dealt with in a specified way; or
   (b) permit a government asset specified in the notice to be made available to a person or entity specified in the notice.

(4) The Minister may issue such a notice on his or her own initiative or upon application under subregulation (1) or (2).

(5) The notice may be subject to conditions, and may be expressed to apply from a date before the notice is given.

(6) The notice must be given to the owner or holder of the asset as soon as practicable after it is made.

(6A) A notice that is given by the Minister on the basis of false or misleading information is taken to have no effect.

(7) The Minister may delegate the Minister’s powers and functions under this regulation to:
   (a) the Secretary of the Department; or
(b) an SES employee, or acting SES employee, in the Department.

(8) The delegation must be in writing.

(9) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.

13 **Indemnity for holder of assets**

A person is not liable to an action, suit or proceeding for anything done or omitted to be done in good faith and without negligence in compliance or purported compliance with this Part.

14 **Arrangements for transfer of government assets**

(1) The Minister may make arrangements for the transfer, as soon as practicable, of government assets which are not the subject of a judicial, administrative, or arbitral lien or judgment that commenced before the commencement of these Regulations to the Development Fund for Iraq.

(2) The arrangements have force according to their terms.

15 **Privileges and immunities in relation to the Development Fund for Iraq**

(1) The Development Fund for Iraq has the same privileges and immunities as the United Nations under the *United Nations (Privileges and Immunities) Regulations 1986*, including privileges and immunities in relation to proceeds of, and obligations arising from, the transfer of:

   (a) petroleum that originates in Iraq; or
   
   (b) another petroleum product that originates in Iraq; or
   
   (c) natural gas that originates in Iraq.

(2) However, subregulation (1) does not apply in relation to any legal proceeding in which recourse to proceeds, obligations or assets is necessary to satisfy liability for damages assessed in connection with an ecological accident (including an oil spill) that occurs after the date of adoption of Resolution 1483.
Part 4 Amendment and repeal of other Regulations relating to Iraq

17 Amendment and repeal

(1) Part 1 of Schedule 1 amends the *Air Navigation Regulations 1947*.

(2) Part 2 of Schedule 1 amends the *Customs (Prohibited Exports) Regulations 1958*.

(3) Part 3 of Schedule 1 amends the *Customs (Prohibited Imports) Regulations 1956*.

Schedule 1 Amendment and repeal of other Regulations relating to Iraq
(regulation 17)

Part 1 Amendment of Air Navigation Regulations 1947

[101] Regulation 119
omit

Part 2 Amendment of Customs (Prohibited Exports) Regulations 1958

[201] Regulation 13CA
omit

Part 3 Amendments of Customs (Prohibited Imports) Regulations 1956

[301] Subregulation 4MA (2), note
substitute
Note Regulation 4N must also be complied with in relation to the importation of rough diamonds from Sierra Leone.

[302] Regulation 4QA
omit

The following Statutory Rules are repealed:

- 1994 No. 265
- 1997 No. 403
- 2001 No. 240.
Notes to the Charter of the United Nations (Sanctions — Iraq) Regulations 2006

Note 1

Under the Legislative Instruments Act 2003, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments. From 1 January 2005 the Statutory Rules series ceased to exist and was replaced with Select Legislative Instruments (SLI series). Numbering conventions remain the same, ie Year and Number.

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