

Statutory Rules 1997 No. 1381

Customs (Prohibited Exports) Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,
acting with the advice of the Federal Executive Council, make the
following Regulations under the *Customs Act 1901*.

Dated 1 1997.

18 December

WILLIAM DEANE
Governor-General

By His Excellency's Command,

WARREN ERROL TRUSS

Minister for Customs and Consumer Affairs

1. Amendment

1.1 The Customs (Prohibited Exports) Regulations are amended as
set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation
Act 1901*, s 48.]

2. New regulation 3

2.1 After regulation 2A, insert:

Exportation of objectionable goods

“3. (1) In this regulation:

‘**computer game**’ means a computer program and associated data capable of generating a display on a computer monitor, television screen, liquid crystal display or similar medium that allows the playing of an interactive game;

‘**computer generated image**’ means an image (including an image in the form of text) produced by use of a computer on a computer monitor, television screen, liquid crystal display or similar medium from electronically recorded data;

‘**film**’ includes a cinematograph film, a slide, video tape and video disc and any other form of recording from which a visual image, including a computer generated image, can be produced, but does not include a computer game;

‘**interactive game**’ means a game in which the way the game proceeds and the result achieved at various stages of the game is determined in response to the decisions, inputs and direct involvement of the player;

‘**publication**’ means a book, paper, magazine, film, computer game or other written or pictorial matter.

“(2) This regulation applies to goods, including publications, that:

- (a) describe, depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in a way that offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that the goods should not be exported; or
- (b) describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or who looks like, a child under 16 (whether the person is engaged in sexual activity or not); or
- (c) in relation to a computer game—are unsuitable for a person under 18 to see or play; or
- (d) promote, incite or instruct in matters of crime or violence; or

- (e) promote or incite the misuse of a drug specified in Schedule 4 to the Customs (Prohibited Imports) Regulations.

“(3) The Attorney-General may, by instrument, appoint a person holding or performing the duties of the office of Director or Deputy Director of the Classification Board established by section 45 of the *Classification (Publications, Films and Computer Games) Act 1995* to be an authorised person for subregulation (4).

“(4) The exportation of goods to which this regulation applies is prohibited unless a written permission to export the goods has been given by the Attorney-General or an authorised person.

“(5) In considering whether to give a permission, the Attorney-General or an authorised person must have regard to:

- (a) the purposes for which the goods are to be exported; and
- (b) the extent to which the person to whom a permission would be given conducts activities of an artistic or educational, or of a cultural or scientific, nature to which the goods relate; and
- (c) the reputation of the person referred to in paragraph (b), both generally and in relation to an activity referred to in that paragraph; and
- (d) the ability of that person to meet conditions that may be imposed under subregulation (6) in relation to the goods; and
- (e) any other relevant matters.

“(6) A permission may specify conditions with which the holder of the permission must comply.

“(7) The Attorney-General or an authorised person may revoke a permission if the holder of the permission fails to comply with a condition imposed under subregulation (6).

“(8) Application may be made to the Administrative Appeals Tribunal for review of a decision of the Attorney-General or an authorised person:

- (a) refusing to give a permission; or
- (b) giving a permission subject to conditions; or
- (c) revoking a permission.

“(9) The Attorney-General may certify in writing that in his or her opinion it is in the public interest that a decision to give or refuse to give a permission should be made solely by the Attorney-General and should not be reviewable by the Administrative Appeals Tribunal.

“(10) The Attorney-General must give a copy of a certificate under subregulation (9) to the person who sought the permission.

“(11) A certificate must include a statement of the grounds on which the certificate is issued.

“(12) While a certificate is in force in relation to a permission or a refusal of a permission, subregulation (8) does not apply to the permission or refusal.

“(13) The Attorney-General must cause a copy of a certificate to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the certificate is issued.

“(14) If the Attorney-General or an authorised person:

- (a) refuses to give a permission to a person; or
- (b) gives a permission to a person subject to conditions; or
- (c) revokes a permission given to a person;

he or she must inform the person of the decision by written notice within 30 days after making the decision.

“(15) Unless the Attorney-General has given a certificate under subregulation (9), a notice under subregulation (14) must include:

- (a) a statement to the effect that application may be made to the Tribunal under the *Administrative Appeals Tribunal Act 1975* for review of the decision to which the notice relates; and
- (b) unless subsection 28 (4) of that Act applies—a statement to the effect that a person who is entitled to apply to the Tribunal for review of the decision may, under section 28 of that Act, request a statement that includes the reasons for the decision.

“(16) A contravention of subregulation (15) in relation to a decision does not affect the validity of the decision.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 24 December 1997.
2. Statutory Rules 1958 No. 5 as amended by 1959 No. 5; 1961 Nos. 16 and 112; 1963 Nos. 129 and 130; 1964 No. 144; 1965 No. 136; 1966 Nos. 70 and 75; 1967 Nos. 42, 59 and 123; 1968 Nos. 46, 83, 101, 153, 160 and 162; 1969 Nos. 11, 21, 22 and 219; 1970 Nos. 34, 68, 89, 106 and 121; 1972 No. 210; 1973 Nos. 4, 7, 39, 74, 102, 138, 218 and 248; 1974 Nos. 46, 157, 178 and 250; 1975 Nos. 19, 44, 45, 173 and 224; 1976 Nos. 169 and 233; 1977 No. 89; 1978 Nos. 14, 58, 59 and 277; 1979 Nos. 160 and 237; 1980 Nos. 21, 61, 72, 76, 82, 99, 110, 212, 273, 358, 381 and 383; 1981 Nos. 49, 72, 86, 149, 225, 251 and 324; 1982 Nos. 169, 171 and 310; 1983 No. 272; 1984 Nos. 35, 63, 191, 262, 263 and 316; 1985 Nos. 1, 68, 138 and 378; 1986 Nos. 76, 89, 177, 178, 328, 364, 365, 366 and 388; 1987 Nos. 97, 115, 156, 176, 301, 317, 318 and 319; 1988 Nos. 65, 178, 195 and 361; 1989 Nos. 57, 59, 196, 264 and 388; 1990 Nos. 125, 146, 190, 264, 333 and 438; 1991 Nos. 24, 77, 118, 288 and 413; 1992 Nos. 61, 83, 103, 155, 412 and 414; 1993 Nos. 68, 212, 258 and 322; 1994 Nos. 32, 143, 172, 242, 313, 379, 392 and 417; 1995 Nos. 71 and 90; 1996 Nos. 32, 47, 48, 49, 50 (Statutory Rules 1996 Nos. 47, 48, 49 and 50 were disallowed in the Senate on 23 May 1996), 69, 225, 281 and 282; 1997 Nos. 30, 31, 32~~and 33~~ and 380