



United Nations (Iraq) Reconstruction Regulations 2003

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 1st day of September 2003

Present:

Her Excellency the Governor-General in Council

Pursuant to section 2 of the United Nations Act 1946, Her Excellency the Governor-General, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) for the purpose of giving effect to resolution 1483 (2003) of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on 22 May 2003, calling upon the Government of New Zealand and all other member States of the United Nations to apply in respect of Iraq the measures set out in that resolution,—

makes the following regulations.

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Regulations

1 Title

These regulations are the United Nations (Iraq) Reconstruction Regulations 2003.

2 Commencement

These regulations come into force on 3 October 2003.

3 Interpretation

In these regulations, unless the context otherwise requires,—
Development Fund for Iraq means the fund mentioned in paragraph 12 of resolution 1483

government asset means the following:

- (a) an asset of the previous government of Iraq that was located outside Iraq on the date of adoption of resolution 1483 (22 May 2003):
- (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 subparagraph (ii); or
 - (iv) a person acting on behalf of, or at the direction of, a body or person mentioned in subparagraph (i), subparagraph (ii), or subparagraph (iii):
- (c) an asset derived or generated from an asset mentioned in paragraph (a) or paragraph (b)

international organisation means any organisation of States or Governments of States, or any agency of any such organisation of any kind

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

Minister means the Minister of Foreign Affairs and Trade

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

resolution 661 means resolution 661 (1990) of the Security Council of the United Nations

resolution 1483 means resolution 1483 (2003) of the Security Council of the United Nations

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 (including importation and exportation).

Cultural property, government assets, and other matters

4 Cultural property

- (1) No person may, knowingly and without lawful justification or reasonable excuse, sell, deliver, or transfer to another person or entity 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) there are reasonable grounds 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.

- (2) This regulation is subject to regulations 5, 11, and 12.

5 Return of cultural property

- (1) A person who is in possession or control of an item of cultural property described in regulation 4 must, as soon as practicable, give the property to a person referred to in subclause (2) if—
- (a) the person in possession or control of the item knows, or has reasonable grounds to suspect, that the item was illegally removed from Iraq after the adoption of resolution 661; or
 - (b) a person referred to in subclause (2) requires the surrender of the property.
- (2) The persons who may be given cultural property under subclause (1) are—
- (a) a member of the personnel of the United Nations Educational, Scientific, and Cultural Organisation; or
 - (b) a member of any international organisation designated in writing by the Minister as an organisation that may receive cultural property under this regulation; or
 - (c) a member of the personnel of Interpol; or
 - (d) a representative of the Authority mentioned in resolution 1483; or
 - (e) a representative of the Iraq National Museum or the National Library of Iraq; or
 - (f) a representative of the place from which the item was removed, or is reasonably suspected of having been removed; or
 - (g) a member of the police.

6 Status of petroleum, petroleum products, and natural gas originating in Iraq

- (1) No proceedings may be brought or any order for attachment or other legal process executed without the permission of the Minister, in respect of anything done, or omitted to be done, during the relevant period 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.

- (2) In subclause (1), **relevant period** means at any time before the title in the petroleum, petroleum product, or natural gas referred to in subclause (1) passes to the initial purchaser of the petroleum, petroleum product, or natural gas.
- (3) This regulation expires at the earlier of—
 - (a) the close of 31 December 2007; or
 - (b) the time, before the close 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 subclause (1) to operate.

7 Dealing with government assets

- (1) No person who knows that an asset held by that person is a government asset may use it or deal with it or allow it to be used or dealt with, or facilitate the use of, or dealing with, the asset, unless the use of, or dealing with, the asset is—
 - (a) in accordance with—
 - (i) a notice under regulation 9; or
 - (ii) regulation 10; and
 - (b) in accordance with regulations 11 and 12.
- (2) For the purposes of subclause (1), **deal with**, in relation to any government asset, includes (without limitation) transferring, paying for, selling, assigning, or otherwise disposing of the asset by any means.

8 Restriction on giving asset to person or entity

No person may knowingly make a government asset available to a person or entity, either directly or indirectly, unless—

- (a) the person or entity to whom the government asset is made available is the Development Fund for Iraq; or
- (b) the making available of the government asset is—
 - (i) in accordance with a notice under regulation 9 or in accordance with regulation 10; and
 - (ii) in accordance with regulations 11 and 12.

9 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, permit a government asset specified in the notice to be—
 - (a) used or dealt with in a specified way; or
 - (b) made available to a person or entity specified in the notice.
- (4) The Minister may issue such a notice—
 - (a) on his or her own initiative; or
 - (b) on application under subclause (1) or subclause (2).
- (5) The notice may be subject to conditions imposed by the Minister.
- (6) The notice must be given to the owner or holder of the asset as soon as practicable after it is made.

10 Arrangements for transfer of government assets

- (1) The Minister may, in respect of a government asset that is not the subject of a lien or judgment obtained before the commencement of this regulation,—
 - (a) require, by notice in writing, the owner or holder of that asset to transfer that asset to the Development Fund for Iraq;
 - (b) require, by notice in writing, any person to take specified steps in relation to that asset to facilitate the return of that asset to the Development Fund for Iraq;
 - (c) make arrangements for the return of the asset as soon as practicable, to the Development Fund for Iraq.
- (2) Any notice issued or arrangement made under subclause (1) in relation to any government asset may override any rights conferred on any person in relation to that asset, by any enactment, rule of law, contract, disposition, or other arrangement.
- (3) Any person who receives a notice under subclause (1)(a) or (b) must comply with that notice as soon as practicable after receiving it.
- (4) Subclause (3) is subject to regulations 11 and 12.

Application of Customs and Excise Act 1996 to items of cultural property

11 Importation or exportation of items of cultural property from Iraq prohibited

- (1) The importation into New Zealand of any item of cultural property to which regulation 4(a) or (b) applies is prohibited unless the Minister consents to that importation.
- (2) The exportation from New Zealand of any item of cultural property to which regulation 4(a) or (b) applies is prohibited unless the Minister consents to that exportation.

12 Application of Customs and Excise Act 1996 to items of cultural property

- (1) All the provisions of the Customs and Excise Act 1996 (except sections 209, 235, 236(2) to (4), and 237(2)) extend and apply in relation to goods whose importation is prohibited by regulation 11(1) in all respects as if the importation of the goods were prohibited under section 54 of that Act.
- (2) All the provisions of the Customs and Excise Act 1996 (except sections 209, 235, 236(2) to (4), and 237(2)) extend and apply in relation to goods whose exportation is prohibited by regulation 11(2) in all respects as if the exportation of the goods were prohibited under section 56 of that Act.
- (3) Despite subclauses (1) and (2), if any item of cultural property to which regulation 4(a) or (b) applies is property in which the Crown has title as forfeited goods, the item must—
 - (a) not be disposed of under section 237(2) of the Customs and Excise Act 1996; but
 - (b) instead be given by the Chief Executive of Customs to a person authorised in writing to receive it by the Secretary of Foreign Affairs.

Miscellaneous

13 Protection of persons

No person is liable for anything done or omitted to be done in good faith by that person in compliance or purported compliance with regulations 6 to 12.

14 Privileges and immunities in relation to Development Fund for Iraq

- (1) The Development Fund for Iraq has, in relation to the matters described in subclause (2), the same immunities and privileges as are conferred on the United Nations by regulations 3 to 10 of the Diplomatic Privileges (United Nations) Order 1959.
- (2) The matters referred to in subclause (1) are—
 - (a) the activities and operations of the Development Fund for Iraq; and
 - (b) the proceeds of, and obligations arising from, the transfer of government assets; and
 - (c) the proceeds of, and obligations arising from, the transfer of—
 - (i) petroleum that originates in Iraq; or
 - (ii) another petroleum product that originates in Iraq; or
 - (iii) natural gas that originates in Iraq.
- (3) Any representative, member, officer, servant, or agent of the Development Fund for Iraq has the immunities and privileges, as are conferred on representatives of the Governments of members of the United Nations by regulation 11 of the Diplomatic Privileges (United Nations) Order 1959 in relation to anything done or omitted by that person in respect of any matter referred to in subclause (2).
- (4) Subclauses (1) and (3) do 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.

15 Offences

Every person commits an offence against these regulations, and is liable accordingly under section 3 of the United Nations Act 1946, who acts in contravention of, or fails to comply in any respect with, any of the provisions of these regulations.

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 3 October 2003, fully implement resolution 1483 (2003) of the Security Council of the United Nations, adopted on 22 May 2003, calling on the member States of the United Nations to adopt a number of measures designed to assist in the reconstruction of Iraq.

Issued under the authority of the Acts and Regulations Publication Act 1989.

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These regulations are administered in the Ministry of Foreign Affairs and Trade.
