

United Nations Sanctions (Iraq) Regulations 1991

(SR 1991/92)

PURSUANT to the United Nations Act 1946, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and for the purpose of giving effect to a resolution of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on the 6th day of August 1990, and to a resolution of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on the 25th day of September 1990, calling upon the Government of New Zealand and all other member states of the United Nations to apply in respect of Iraq and Kuwait the measures set out in those resolutions, and to a resolution of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on the 2nd day of March 1991, requesting the Government of New Zealand and all other member States of the United Nations to take all appropriate action to cooperate with the Government and people of Kuwait in the reconstruction of their country, and to a resolution of the Security Council of the United Nations, adopted pursuant to the United Nations Charter on the 3rd day of April 1991, calling upon the Government of New Zealand and all other member States of the United Nations to apply or to continue to apply in respect of Iraq the measures set out in Part F of that resolution, hereby makes the following regulations.

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

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1 Title and commencement

- (1) These regulations may be cited as the United Nations Sanctions (Iraq) Regulations 1991.
- (2) These regulations shall come into force on the 7th day of June 1991.

2 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
Customs or the Customs, Customs officer, and Chief Executive have the same meaning as in section 2(1) of the Customs and Excise Act 1996

Customs or the Customs, Customs officer, and Chief Executive: inserted, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27).

The Customs Acts, Collector, and Comptroller *[Revoked]*

The Customs Acts, Collector, and Comptroller: revoked, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27).

[Revoked]

Importer has the same meaning as in the Customs and Excise Act 1996

Importer: amended, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27) by substituting the words “Customs and Excise Act 1996” for the words “Customs Act 1966”.

Iraqi ship means a ship registered in Iraq, or recognised by law of New Zealand as belonging to Iraq

Money includes—

- (a) The bank notes and other currency, postal notes, and money orders of New Zealand or any other country; and
- (b) Promissory notes and bills of exchange; and

- (c) Any credit in an account with any person, whether that account is held in New Zealand or outside New Zealand:

New Zealand includes Tokelau

New Zealand aircraft means any aircraft that is registered or required to be registered in New Zealand under the Civil Aviation Act 1990

New Zealand ship means a ship registered in New Zealand, or recognised by the law of New Zealand as a ship belonging to New Zealand

Securities—

- (a) Includes shares, stock, bonds, debentures, debenture stock, mortgages, liens, treasury bills, coupons or warrants representing dividends or interest, and life or endowment insurance policies, in whatever currency the securities are expressed and whether they are situated in New Zealand or elsewhere; and
- (b) Also includes any document or means whereby the right to the ownership or provision of any money or security, or any interest therein may be exercised; but
- (c) Does not include promissory notes or bills of exchange.

specified goods—

- (a) means weapons; and
- (b) includes—
- (i) related material of all kinds, such as arms, ammunition, missiles, military vehicles, and equipment, or paramilitary equipment; and
 - (ii) spare parts for any weapons, or for any goods specified in paragraph (i); and
 - (iii) the means of production for such equipment; but
- (c) does not include any weapons or other related materials required by the Authority (as defined in Security Council Resolution 1483 (2003)) to serve the purposes of that and other related resolutions of the Security Council.

specified goods: this definition was inserted, as from 27 June 2003, by regulation 3 United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

- (2) Any reference in these regulations to the transfer of any security includes a reference to a transfer of the security by way of

loan, mortgage, pledge, or bailment, whether in respect of a legal or an equitable interest.

Prohibited imports

[Revoked]

The heading “Prohibited imports” was revoked, as from 27 June 2003, by regulation 4(a) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

3 Importation of goods from Iraq prohibited

[Revoked]

Regulations 3 to 5 were revoked, as from 27 June 2003, by regulation 4(a) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

4 Application of Customs and Excise Act 1996 to prohibited imports

[Revoked]

Regulation 4 was substituted, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27).

Regulations 3 to 5 were revoked, as from 27 June 2003, by regulation 4(a) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

5 Detention of, and payment for, prohibited imports

[Revoked]

Subclause (1) was amended, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27) by substituting the words “any Customs officer” for the words “a Collector”.

Subclause (2) was amended, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27) by substituting the words “New Zealand Customs Service” for the words “Customs Department”.

Subclause (2) was amended, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27) by substituting the words “section 229 of the Customs and Excise Act 1996” for the words “section 284 of the Customs Act 1966”.

Subclause (6) was amended, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27) by substituting the words “Chief Executive” for the word “Comptroller” in both places where it appeared.

Regulations 3 to 5 were revoked, as from 27 June 2003, by regulation 4(a) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

Prohibited exports

6 Exportation of specified goods to Iraq prohibited

Except with the consent of the Minister of External Relation and Trade, the exportation from New Zealand to Iraq, whether directly or indirectly, of any specified goods is hereby prohibited.

The heading to regulation 6 was amended, as from 27 June 2003, by regulation 5(a) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by inserting the word “specified” after the word “of”.

Regulation 6 was amended, as from 27 June 2003, by regulation 5(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by substituting the words “specified goods” for the word “goods”.

7 Application of Customs and Excise Act 1996 to prohibited exports

All the provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) shall extend and apply with respect to specified goods whose exportation is prohibited by regulation 6 of these regulations, in all respects as if the exportation of the specified goods were prohibited under section 56 of the Customs and Excise Act 1996.

Regulation 7 was substituted, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27).

Regulation 7 was amended, as from 27 June 2003, by regulation 5(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by substituting the words “specified goods” for the word “goods”.

8 Detention of prohibited exports

If any Customs officer has reason to suspect that any specified goods being exported are specified goods whose exportation is prohibited by regulation 6 of these regulations, that Customs officer may detain the specified goods.

Regulation 8 was amended, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27) by substituting the words “any Customs officer” and “that Customs officer” for the words “a Collector” and “that Collector” respectively.

Regulation 8 was amended, as from 27 June 2003, by regulation 5(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by substituting the words “specified goods” for the word “goods”.

9 Loading of prohibited exports onto ships or aircraft prohibited

The master of a ship or the pilot in command of an aircraft shall not permit to be laden in the ship or aircraft any specified goods whose exportation is prohibited by regulation 6 of these regulations, knowing that the specified goods are intended to be exported in contravention of that regulation.

Regulation 9 was amended, as from 27 June 2003, by regulation 5(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by substituting the words “specified goods” for the word “goods”.

10 Power to withhold clearance of ship or aircraft

The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any specified goods known to a Customs officer to be specified goods whose exportation is prohibited by regulation 6 of these regulations.

Regulation 10 was substituted, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27).

Regulation 10 was amended, as from 27 June 2003, by regulation 5(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by substituting the words “specified goods” for the word “goods”.

**Prohibited transactions in relation to
exports**

[Revoked]

The heading “Prohibited transactions in relation to exports” was revoked, as from 27 June 2003, by regulation 4(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

11 Prohibited transactions in relation to exports from Iraq

[Revoked]

Regulations 11 and 12 were revoked, as from 27 June 2003, by regulation 4(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

12 Prohibition on promotion of exportation or transhipment of goods from Iraq*[Revoked]*

Regulations 11 and 12 were revoked, as from 27 June 2003, by regulation 4(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

Prohibitions in relation to weapons**13 Prohibitions in relation to weapons**

(1) Except with the consent of the Minister of Foreign Affairs and Trade, no person shall in New Zealand, and no New Zealand citizen shall in any place outside New Zealand, sell, transfer, carry, or deliver, or cause to be sold, transferred, carried, or delivered,—

- (a) Technology related to the production, utilisation, or stockpiling of weapons; or
- (b) Materials and services designed to be used in giving training in relation to the design, development, manufacture, use, maintenance, or support of weapons; or
- (c) Technical support services in relation to the design, development, manufacture, use, maintenance, or support of weapons,—

to the Government of Iraq or to the benefit of the Government of Iraq or to any commercial undertaking, industrial undertaking, or public utility undertaking in Iraq or to the benefit of any commercial undertaking, industrial undertaking, or public utility undertaking in Iraq or to any person in Iraq or to the benefit of any person in Iraq or to the benefit of any business carried on in or operated from Iraq.

(2) Without limiting the generality of subclause (1)(a) of this regulation, it is hereby declared that subclause (1)(a) of this regulation applies in respect of the sale, transfer, carriage, or delivery

under a licensing or other arrangement of technology related to the production, utilisation, or stock-piling of weapons.

Prohibited transactions in relation to imports

[Revoked]

The heading “Prohibited transactions in relation to imports” was revoked, as from 27 June 2003, by regulation 4(c) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

14 Prohibited transactions in relation to imports into Iraq

[Revoked]

Regulations 14 to 16 were revoked, as from 27 June 2003, by regulation 4(c) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

15 Prohibition on promotion of importation of specified goods into Iraq

[Revoked]

The heading to regulation 15 was to be amended, as from 27 June 2003, by regulation 5(a) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by inserting the word “specified” after the word “of”.

Regulations 14 to 16 were revoked, as from 27 June 2003, by regulation 4(c) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

Prohibitions in relation to money, securities, and assets

16 Prohibition in relation to transfer or delivery of money or securities

[Revoked]

Regulations 14 to 16 were revoked, as from 27 June 2003, by regulation 4(c) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

**17 Prohibition on dealings in assets, money, or securities in
New Zealand**

[Revoked]

Regulation 17 was revoked, as from 3 October 2003, by regulation 3 United Nations Sanctions (Iraq) Amendment Regulations (No 2) 2003 (SR 2003/218).

Prohibition on carriage of goods**18 Prohibition on carriage of specified goods to Iraq**

- (1) This regulation applies to—
- (a) Any New Zealand ship:
 - (b) Any New Zealand aircraft:
 - (c) Any other ship or aircraft that is for the time being chartered to any person, being a New Zealand citizen or a body incorporated or constituted under the law of New Zealand.
- (2) Without prejudice to the generality of the foregoing provisions of these regulations, no ship or aircraft to which this regulation applies shall be used for the carriage of any specified goods—
- (a)
 - (b) If the carriage is, or forms part of, carriage from any place outside Iraq to any destination in Iraq or to any person for the purposes of any business carried on in or operated from Iraq.
- (3)
- (4) Nothing in this regulation shall apply to any carriage of specified goods in respect of which the consent of the Minister of Foreign Affairs and Trade has been given under any other provision of these regulations.

The heading to regulation 18 was amended, as from 27 June 2003, by regulation 5(a) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by inserting the word “specified” after the word “of”.

The heading to regulation 18 was amended, as from 27 June 2003, by regulation 5(c) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by omitting the words “or from”.

Subclause (2) was amended, as from 27 June 2003, by regulation 5(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by substituting the words “specified goods” for the word “goods”.

Subclauses (2)(a) and (3) were revoked, as from 27 June 2003, by regulation 4(d) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

“”

Subclause (4) was amended, as from 27 June 2003, by regulation 5(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by substituting the words “”

19 Liability of owner, charterer, master, or pilot in command

(1)

(2) If any ship or aircraft is used in contravention of regulation 18(2)(b) of these regulations, then,—

(a) In the case of a New Zealand ship or aircraft, the owner and the master of the ship or, as the case may be, the owner and the pilot in command of the aircraft; or

(b) In the case of any other ship or aircraft, the charterer of the ship or aircraft and, if the master of the ship or pilot in command of the aircraft is a New Zealand citizen, such master or pilot in command—

shall each be guilty of an offence against these regulations, unless he or she proves that he or she did not know and had no reason to suppose that the carriage of specified goods was, or formed part of, carriage from any place outside Iraq to any destination therein or to any person for the purposes of any business carried on in or operated from Iraq.

(3) In this regulation, the terms **owner** and **charterer**, in relation to a ship, include any person acting as the agent of the owner or, as the case may be, the agent of the charterer.

Subclause (1) was revoked, as from 27 June 2003, by regulation 4(d) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

Subclause (2) was amended, as from 27 June 2003, by regulation 5(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by substituting the words “specified goods” for the word “goods”.

Prohibitions in relation to aircraft

20 Prohibitions in relation to aircraft

(1) Except with the consent of the Minister of Foreign Affairs and Trade, no person shall cause any aircraft to leave New Zealand if the aircraft is being used for the purpose of carrying specified goods, whether directly or indirectly, to or from a destination in Iraq.

- (2) It shall be a defence to a prosecution for an offence against subclause (1) of this regulation if the person proves that he or she did not know and had no reason to suppose that the aircraft was being used for the purpose of carrying specified goods to or from a destination in Iraq.
- (3) Except with the consent of the Minister of Foreign Affairs and Trade, no person shall permit or authorise an aircraft to leave New Zealand if that person has reason to suspect that the aircraft is being used for the purpose of carrying specified goods, whether directly or indirectly, to or from a destination in Iraq.
- (4) Except with the consent of the Minister of Foreign Affairs and Trade, no person shall cause any aircraft to fly over New Zealand or any part of New Zealand if the destination of the aircraft is in Iraq.
- (5) Except with the consent of the Minister of Foreign Affairs and Trade, no person shall permit or authorise an aircraft to fly over New Zealand or any part of New Zealand if that person has reason to suspect that the destination of the aircraft is in Iraq.

Subclauses (1) to (3) were amended, as from 27 June 2003, by regulation 5(b) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139) by substituting the words “specified goods” for the word “goods”.

Prohibition in relation to entry of Iraqi ships

[Revoked]

The heading “Prohibition in relation to entry of Iraqi ships” was revoked, as from 27 June 2003, by regulation 4(e) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

21 Prohibition on entry of Iraqi ships

[Revoked]

Regulations 21 and 22 were revoked, as from 27 June 2003, by regulation 4(e) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

22 Detention of Iraqi ships

[Revoked]

Regulations 21 and 22 were revoked, as from 27 June 2003, by regulation 4(e) United Nations Sanctions (Iraq) Amendment Regulations 2003 (SR 2003/139).

Miscellaneous provisions

23 Offences

Every person commits an offence against these regulations and shall be 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.

24 Consent of Attorney-General to proceedings in certain cases

Proceedings for the trial and punishment of any person who is charged with having committed outside New Zealand any offence against these regulations shall not be instituted in any Court except with the consent of the Attorney-General and on his or her certificate that it is expedient that the proceedings be instituted.

25 Customs and Excise Act 1996 not affected

Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.

Regulation 25 was substituted, as from 1 October 1996, by section 289(2) Customs and Excise Act 1996 (1996 No 27).

26 Revocation

The United Nations Sanctions (Iraq and Kuwait) Regulations (No 2) 1990¹ are hereby revoked.

MARIE SHROFF,
Clerk of the Executive Council.

¹ SR 1990/292

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 7 June 1991, replace, in relation to Iraq, the United Nations Sanctions (Iraq and Kuwait) Regulations (No 2) 1990. Those regulations were made for the purpose of giving effect, in relation to Iraq and Kuwait, to the resolution of the Security Council of the United Nations adopted on 6 August 1990 and to the resolution of the Security Council of the United Nations adopted on 25 September 1990.

The Security Council adopted, on 2 March 1991, a resolution requesting the Government of New Zealand and all other member States of the United Nations to take all appropriate action to cooperate with the Government and people of Kuwait in the reconstruction of their country.

On 3 April 1991 the Security Council adopted a further resolution calling upon the Government of New Zealand and all other member States of the United Nations to apply or to continue to apply in respect of Iraq the measures set out in Part F of that resolution.

These regulations continue the sanctions being applied by the United Nations Sanctions (Iraq and Kuwait) Regulations (No 2) 1990 in relation to Iraq and lift the economic sanctions being applied by those regulations in relation to Kuwait.

Regulation 13 of these regulations removes any doubt that the prohibitions contained in the regulations apply to the sale, transfer, carriage, or delivery to Iraq of—

- (a) Technology related to the production, utilisation, or stockpiling of weapons; or
- (b) Materials and services designed to be used in giving training in relation to the design, development, manufacture, use, maintenance, or support of weapons; or
- (c) Technical support services in relation to the design, development, manufacture, use, maintenance, or support of weapons.