



# **Charter of the United Nations (Sanctions—Iraq) Amendment Regulation 2015**

## **Select Legislative Instrument No. 161, 2015**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),  
Governor-General of the Commonwealth of Australia, acting with the  
advice of the Federal Executive Council, make the following regulation.

Dated 17 September 2015

Peter Cosgrove  
Governor-General

By His Excellency's Command

Julie Bishop  
Minister for Foreign Affairs

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*OPC61322 - A*







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## 1 Name

This is the *Charter of the United Nations (Sanctions—Iraq) Amendment Regulation 2015*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	The day after the end of the period of 28 days beginning on the day this instrument is registered.	19 October 2015

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Charter of the United Nations Act 1945*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Charter of the United Nations (Sanctions—Iraq) Regulations 2008*

#### **1 Regulation 4**

Insert:

*Arts Department* means the Department administered by the Minister administering the *Protection of Movable Cultural Heritage Act 1986*.

#### **2 Regulation 4 (definition of *illegally removed cultural property*)**

Repeal the definition, substitute:

*illegally removed cultural property* means an item of:

- (a) Iraqi cultural property; or
- (b) archaeological, historical, cultural, rare scientific, or religious, importance;

that has been illegally removed from Iraq on or after 6 August 1990.

#### **3 Regulations 9 and 10**

Repeal the regulations, substitute:

#### **9 Return of illegally removed cultural property of Iraq**

- (1) A person who suspects that an item in the possession or control of a person is illegally removed cultural property must, as soon as practicable, notify any of the following:
  - (a) the Secretary of the Department;
  - (b) the Secretary of the Arts Department;
  - (c) a member of the Australian Federal Police or of the police force of a State or Territory.
- (2) If the Secretary of the Department reasonably believes that a person has possession or control of an item that might be illegally removed cultural property, the Secretary may, by written notice to

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the person, direct the person to comply with arrangements specified by the Secretary for storage of the item.

Note: If notified about an item under subregulation (1), the Departments and police will work together to determine whether the item is illegally removed cultural property. If satisfied it is, the Department will arrange for its eventual safe return to an appropriate institution in Iraq.

- (3) A person commits an offence of strict liability if:
- (a) the person is directed under subregulation (2) to comply with specified arrangements; and
  - (b) the person fails to comply with the arrangements.

Penalty: 50 penalty units.

- (4) If the Secretary cannot satisfy himself or herself that an item for which arrangements are specified under subregulation (2) is an item of illegally removed cultural property, the Secretary must terminate the arrangements.

## **10 Dealing with illegally removed cultural property of Iraq**

- (1) A person contravenes this regulation if the person does any of the following otherwise than in accordance with a direction under subregulation 9(2):
- (a) gives illegally removed cultural property to another person;
  - (b) trades in illegally removed cultural property;
  - (c) transfers the title of illegally removed cultural property.
- (2) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).
- (3) A body corporate contravenes this regulation if:
- (a) the body corporate has effective control over another body corporate or entity (wherever incorporated or situated); and
  - (b) the other body corporate or entity contravenes subregulation (1).

## **4 At the end of Part 2**

Add:

## **12A Compensation for acquisition of property**

- (1) If the operation of this Part would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

## **5 At the end of the regulations**

Add:

## **Part 4—Application and transitional provisions**

### **14 Saving provision for amendments made by the *Charter of the United Nations (Sanctions—Iraq) Amendment Regulation 2015***

The amendments made by the *Charter of the United Nations (Sanctions—Iraq) Amendment Regulation 2015* do not affect a person's duty to comply with an arrangement specified by the Department for the purposes of subregulation 9(2) before the commencement of that instrument.