



Charter of the United Nations (Sanctions — Democratic People's Republic of Korea) Amendment Regulations 2009 (No. 1)¹

Select Legislative Instrument 2009 No. 182

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Charter of the United Nations Act 1945*.

Dated 9 July 2009

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

STEPHEN SMITH
Minister for Foreign Affairs

1 Name of Regulations

These Regulations are the *Charter of the United Nations (Sanctions — Democratic People's Republic of Korea) Amendment Regulations 2009 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Charter of the United Nations (Sanctions — Democratic People's Republic of Korea) Regulations 2008*

Schedule 1 amends the *Charter of the United Nations (Sanctions — Democratic People's Republic of Korea) Regulations 2008*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 4, after definition of Act

insert

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.

[2] Regulation 4, after definition of *Australian ship*

insert

authorised service means a sanctioned service that is authorised by:

- (a) a permit under regulation 14C; or
- (b) if the service is provided in a foreign country — a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1718 and Resolution 1784.

authorised supply means a sanctioned supply that is authorised by:

- (a) a permit under regulation 14B; or
- (b) if the supply, sale or transfer takes place in or from a foreign country — a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1718 and Resolution 1874.

bunkering service, for a vessel, includes:

- (a) the provision of fuel to the vessel; and
- (b) the provision of supplies to the vessel; and
- (c) other servicing of the vessel.

[3] Regulation 4, after definition of *designated person or entity*

insert

DPRK means the Democratic People's Republic of Korea.

DPRK vessel means a vessel registered in the DPRK or owned or controlled by the DPRK.

[4] Regulation 4, definition of *military goods*

substitute

light weapon means a portable lethal weapon designed for use by several individuals functioning as a crew and includes:

- (a) ammunition for the weapon; and
- (b) components used for the manufacture of ammunition for the weapon; and
- (c) spare and replacement parts for the weapon.

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;
- (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).

[5] Regulation 4, after definition of *Resolution 1718*

insert

Resolution 1874 means Resolution 1874 (2009) of the Security Council, adopted on 12 June 2009.

[6] Regulation 4, after definition of *Security Council*

insert before the note

small arm means a portable lethal weapon for use by 1 individual and includes:

- (a) ammunition for the weapon; and

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- (b) components used for the manufacture of ammunition for the weapon; and
 - (c) spare and replacement parts for the weapon.

[7] Paragraph 5 (1) (a)

substitute

- (a) arms or related matériel;

[8] Paragraph 5 (1) (c)

substitute

- (c) goods mentioned in the following Security Council and International Atomic Energy Agency documents:
 - (i) S/2006/814;
 - (ii) S/2006/815;
 - (iii) S/2006/853;
 - (iv) INFCIRC/254/Rev.9/Part 1a;
 - (v) INFCIRC/254/Rev.7/Part 2a.

[9] Paragraph 5 (1) (d)

omit

subparagraph (8) (a) (ii)

insert

subparagraphs (8) (a) (i) and (ii)

[10] Paragraphs 7 (a) and (b)

substitute

- (a) arms or related matériel;
- (b) goods mentioned in the following Security Council and International Atomic Energy Agency documents:
 - (i) S/2006/814;
 - (ii) S/2006/815;

- (iii) S/2006/853;
- (iv) INFCIRC/254/Rev.9/Part 1a;
- (v) INFCIRC/254/Rev.7/Part 2a.

[11] Paragraph 7 (c)

omit

subparagraph (8) (a) (ii)

insert

subparagraphs (8) (a) (i) and (ii)

[12] Subparagraph 8 (c) (ii)

omit

Democratic People's Republic of Korea.

insert

Democratic People's Republic of Korea;

[13] After paragraph 8 (c)

insert

- (d) a financial transaction related to the supply, manufacture, maintenance or use of arms or related matériel (other than small arms or light weapons).

[14] Subregulations 9 (4) and (5), except the note

substitute

- (4) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if:
 - (a) the person uses the services of an Australian ship or an Australian aircraft to transport or export sanctioned goods in the course of, or for the purpose of, making a sanctioned supply; and
 - (b) the sanctioned supply is not an authorised supply.

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- (5) A body corporate contravenes this regulation if:
- (a) the body corporate has effective control over the actions of another body corporate or entity, wherever incorporated or situated; and
 - (b) the other body corporate or entity makes a sanctioned supply; and
 - (c) the sanctioned supply is not an authorised supply.

[15] Subregulation 11 (2)

substitute

- (2) A person contravenes this regulation if:
- (a) the person provides a sanctioned service; and
 - (b) the sanctioned service is not an authorised service; and
 - (c) the sanctioned service is not provided in relation to an authorised supply.

[16] Paragraph 11 (5) (b), except the note

substitute

- (b) the other body corporate or entity provides a sanctioned service or procures a sanctioned service from:
 - (i) the Democratic People's Republic of Korea; or
 - (ii) a person in the Democratic People's Republic of Korea; or
 - (iii) a national of the Democratic People's Republic of Korea; and
- (c) the sanctioned service is not an authorised service; and
- (d) the sanctioned service is not provided in relation to an authorised supply.

[17] After regulation 11

insert

11A Prohibition relating to bunkering service

- (1) A person contravenes this regulation if the person provides a bunkering service to a DPRK vessel and the provision of the bunkering service is not authorised in accordance with subregulation (3).
- (2) A body corporate contravenes this regulation if:
 - (a) the body corporate has effective control over the actions of another body corporate or entity wherever incorporated or situated; and
 - (b) the other body corporate or entity provides a bunkering service to a DPRK vessel and the provision of the bunkering service is not authorised in accordance with subregulation (3)
- (3) The provision of a bunkering service to a DPRK vessel is authorised:
 - (a) by a permit under regulation 14A; or
 - (b) if the bunkering service is provided in a foreign country — by a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1718 and Resolution 1874.

[18] After regulation 14

insert in Part 2

14A Permit to provide a bunkering service

- (1) The Minister may, on application, grant a person a permit authorising the provision of a bunkering service to a DPRK vessel.

Note Section 13A of the Act applies to a permit granted by the Minister under this subregulation.

- (2) The Minister must not grant the permit if the Minister has reasonable grounds for believing that the vessel is carrying export sanctioned goods unless:
- (a) the supply of the service is for humanitarian purposes; or
 - (b) the export sanctioned goods have been inspected, seized and disposed of in accordance with paragraph 17 of Resolution 1874.
- (3) A permit is subject to any conditions specified in the permit.

14B Permit to make a sanctioned supply

- (1) The Minister may, on application, grant a person a permit authorising the making of a sanctioned supply.

Note Section 13A of the Act applies to a permit granted by the Minister under this subregulation.

- (2) The Minister may grant a permit only if the sanctioned supply is a supply, sale or transfer of small arms or light weapons.
- (3) The Minister must not grant a permit for the purposes of subregulation (2) unless:
- (a) the Minister has notified the Committee of the application; and
 - (b) 5 working days have passed since the notification was given and the Committee has not advised against granting the permit to the applicant.
- (4) A permit is subject to any conditions specified in the permit.

14C Permit to provide a sanctioned service

- (1) The Minister may, on application, grant a person a permit authorising the provision of a sanctioned service if the service is in relation to a sanctioned supply of small arms or light weapons.

Note Section 13A of the Act applies to a permit granted by the Minister under this subregulation.

- (2) The Minister must not grant the permit unless the sanctioned supply to which the sanctioned service relates is an authorised supply.
- (3) A permit is subject to any conditions specified in the permit.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.