

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 193

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

*Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea)
Amendment Regulations 2009 (No. 2)*

The purpose of the Regulations is to update the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Regulations 2008* (the Principal Regulations) in order to bring them into conformity with decisions of the United Nations Security Council (UNSC).

Section 6 of the *Charter of the United Nations Act 1945* (the Act) provides that the Governor-General may make regulations for, in relation to, and giving effect to decisions that the UNSC has made under Chapter VII of the Charter of the United Nations (Charter) which Article 25 of the Charter requires Australia to carry out, in so far as those decisions require Australia to apply measures not involving the use of armed force.

The Principal Regulations, among other things, implement Security Council decisions requiring states to prohibit the supply to the Democratic People’s Republic of Korea (DPRK) of all arms and related matériel, with the exception of small arms and light weapons. The Principal Regulations implement this obligation by prohibiting the supply of all arms and related matériel unless a permit has been granted by the Minister for Foreign Affairs under regulation 14B.

The Regulations amend sub-regulation 9(2) of the Principal Regulations to clarify that a person contravenes the Principal Regulations if the person makes a sanctioned supply that is not authorised in accordance with regulation 14B.

The Regulations ensure that those aspects of the sanctions imposed by Resolution 1874 which cannot be implemented under existing regulations are adequately implemented into domestic law.

Resolution 1874 was adopted under Article 41 of Chapter VII of the Charter of the United Nations and the measures are binding on Australia pursuant to Article 25 of that Charter.

The Act specifies no conditions that need to be satisfied before the power to make the proposed Regulations may be exercised.

Interdepartmental consultation was undertaken during the preparation of the Principal Regulations. Public consultation was not undertaken in respect of these Regulations as they implement a change to Australia’s international obligations.

Authority: Section 6 of the
Charter of the United Nations Act 1945

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Details of the Regulations are as follows:

Regulation 1 provides that the name of the Regulations is the *Charter of the United Nations (Sanctions — Democratic People’s Republic of Korea) Amendment Regulations 2009 (No. 2)*.

Regulation 2 provides for the commencement of the Regulations on the day after they are registered.

Regulation 3 provides that Schedule 1 amends the *Charter of the United Nations (Sanctions — Democratic People’s Republic of Korea) Regulations 2008*.

Schedule 1 Amendments

Item [1] amends regulation 9, replacing sub-regulation 9(2) to provide that the regulation is contravened if the sanctioned supply referred to is not an authorised supply.