

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 173

Charter of the United Nations Act 1945

Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Amendment Regulation 2013 (No. 1)

The purpose of the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Amendment Regulation 2013 (No. 1)* is to amend the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Regulations 2008* (Principal Regulations) to implement decisions of the United Nations Security Council (UNSC) amending sanctions in relation to the Democratic People’s Republic of Korea (DPRK).

Section 6 of the *Charter of the United Nations Act 1945* (the Act) provides that the Governor-General may make regulations to give effect to decisions of the UNSC under Chapter VII of the Charter of the United Nations (the Charter) that 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 currently implement Australia’s obligations under UNSC resolutions 1718 (14 October 2006) and 1874 (12 June 2009). Pursuant to these resolutions, Australia is obliged to prohibit, subject to exceptions and conditions set out in the resolutions, the supply, sale or transfer of nuclear and missile related equipment, goods and technology ("export sanctioned goods") which could contribute to the DPRK nuclear or ballistic missile activities. The Principal Regulations also implement targeted financial sanctions against designated DPRK individuals and entities.

Resolution 2094 expands the existing scope and effect of the sanctions targeted at individuals and entities listed by the UNSC and the Committee established pursuant to resolution 1718 (2006). It also extends the existing sanctions to cover additional services, items, materials, equipment, goods and technology. The Principal Regulations also implement, inter alia, the targeted financial sanctions against designated DPRK individuals and entities.

The Regulation would amend the Principal Regulations as necessary to give effect to resolution 2094. Details of the Regulation are set out in the [Attachment](#).

No public consultation was undertaken in relation to the Regulation because it implements Australia’s international legal obligations arising from decisions of the UNSC.

Resolution 2094 was adopted under Article 41 of Chapter VII of the Charter and the decisions therein are binding on Australia pursuant to Article 25 of that Charter. The relevant UNSC resolution can be found on the United Nations website (www.un.org).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

*Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea)
Amendment Regulation 2013 (No. 1)*

The *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Amendment Regulation 2013 (No. 1)* is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The Regulation gives effect to decisions that the United Nations Security Council has made under Chapter VII of the *Charter of the United Nations* (the Charter) that 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.

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

Details of the Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Amendment Regulation 2013 (No. 1)

Section 1 – Name of Regulation

Section 1 provides that the name of the Regulation is the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Amendment Regulation 2013 (No. 1)*.

Section 2 – Commencement

Section 2 provides that the Regulation commences on the day after it is registered.

Section 3 – Authority

Section 3 provides that the Regulation is made under the *Charter of the United Nations Act 1945*.

Section 4 – Schedule

Section 4 establishes that each instrument that is specified in a Schedule to the Regulation is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Regulation has effect according to its terms.

Schedule 1 – Amendments

[Item 1]

[Item 1] amends regulation 6 to create subregulation 6 (1).

[Item 2]

[Item 2] amends the definition of “sanctioned supply” to include the transfer of any financial or other assets or resources, including bulk cash.

[Item 3]

[Item 3] amends regulation 8 to create subregulation 8 (1).

[Item 4]

[Item 4] amends the definition of “sanctioned service” to including brokering or intermediary services, and the provision of financial services that could contribute to the nuclear or ballistic missile programs of the DPRK.

[Item 4] also includes a definition of “brokering services”, “financial services” and “insurance”.

[Item 5]

[Item 5] amends the prohibition in relation to dealing with a designated person or entity to include a person acting on behalf of or at the direction of a designated person or entity, and an entity that is owned or controlled, including through illicit means, by a person or entity acting on behalf of, or at the direction of, a designated person or entity.