

EXPLANATORY STATEMENT

Select Legislative Instrument No. 193, 2014

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

Charter of the United Nations Legislation Amendment (Sanctions—Democratic People's Republic of Korea and Iran) Regulation 2014

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 United Nations Security Council (UNSC) under Chapter VII of the Charter of the United Nations (the Charter), that Australia is required to carry out under Article 25 of the Charter, and in so far as those decisions require Australia to apply measures not involving the use of armed force. Section 6(2)(g) of the Act also allows the regulations to authorise the making of legislative instruments.

The *Charter of the United Nations Legislation Amendment (Sanctions—Democratic People's Republic of Korea and Iran) Regulation 2014* (the Amendment Regulation) amends the *Charter of the United Nations (Sanctions – Iran) Regulations 2008* (the Iran Regulations) and the *Charter of the United Nations (Sanctions – Democratic People's Republic of Korea) Regulations 2008* (the DPRK Regulations). The Amendment Regulation creates a mechanism in both the Iran Regulations and DPRK Regulations to simplify the implementation into Australian law of decisions of the UNSC, its Iran Sanctions Committee or its DPRK Sanctions Committee, to amend the list of export or import sanctioned goods for either sanctions regime. The mechanism will allow for the more timely amendment of the Iran Regulations and DPRK Regulations to implement such amendments to the lists of export or import sanctioned goods.

The DPRK Regulations give effect in Australia to sanctions obligations arising from UNSC resolution 1718 (2006) and its successors. The Amendment Regulation allows the Minister to determine by legislative instrument that goods mentioned in a document, specified under the DPRK Regulations, are export and import sanctioned goods. This amendment builds on the existing legislative instrument making power in subregulation 5(2) of the *DPRK Regulations*.

The Iran Regulations give effect in Australia to sanctions obligations arising from UNSC resolution 1737 (2006) and its successors. The Amendment Regulation allows the Minister to determine by legislative instrument that goods mentioned in a document, specified under the Iran Regulations, are export and import sanctioned goods. This amendment builds on the existing legislative instrument making power in subregulation 5(2) and subregulation 17E(2)(a)(i) of the Iran Regulations.

Section 6(3) of the *Charter of the United Nations Act 1945* provides that regulations made for the purposes of giving effect to decisions of the UNSC may make provision in relation to a matter by applying, adopting or incorporating any matter contained in

an instrument or other writing as in force or existing from time to time despite subsection 14(2) of the *Legislative Instruments Act 2003*.

No public consultation was undertaken in relation to the Amendment Regulation, as it implements Australia's international legal obligations arising from decisions of the UNSC. The Department of Foreign Affairs and Trade conducts regular outreach to the Australian business community to explain Australian sanctions laws implementing UNSC sanctions.

Resolutions 1718 and 1737 were adopted under Article 41 of Chapter VII of the Charter and the measures are binding on Australia pursuant to Article 25 of that Charter. The relevant UNSC resolutions can be found on the UN website (www.un.org).

Details of the Amendment Regulation are set out in the [Attachment](#).

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 Legislation Amendment (Sanctions—Democratic People’s Republic of Korea and Iran) Regulation 2014

The *Charter of the United Nations Legislation Amendment (Sanctions—Democratic People’s Republic of Korea and Iran) Regulation 2014* (the Amendment Regulation) 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 Amendment Regulation amends the *Charter of the United Nations (Sanctions – Iran) Regulations 2008* (**the Iran Regulations**) and the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Regulations 2008* (**the DPRK Regulations**) by creating a mechanism in both the Iran Regulations and DPRK Regulations for the Minister to specify documents by legislative instrument that reflect decisions of the Iran Sanctions Committee or DPRK Sanctions Committee to introduce new, or modify, items that are included within the definition of export or import sanctioned goods.

The Amendment Regulation amends the **Iran Regulations**, and creates a mechanism for the efficient implementation of decisions of the Iran Sanctions Committee, where the Committee publishes or updates documents to include further items that would constitute import or export sanctioned goods for the purposes of Australian domestic law.

The Amendment Regulation amends the **DPRK Regulations**, and creates a mechanism for the efficient implementation of decisions of the DPRK Sanctions Committee, where the Committee publishes or updates documents to include further items that would constitute import or export sanctioned goods for the purposes of Australian domestic law.

The Amendment Regulation protects human rights by ensuring that persons and entities that violate measures imposed by UNSC resolutions will be subject to the UNSC sanctions measures.

ATTACHMENT

Details of *Charter of the United Nations Legislation Amendment (Sanctions—Democratic People’s Republic of Korea and Iran) Regulation 2014*

Section 1 – Name of Regulation

Section 1 provides that the name of the regulation is the *Charter of the United Nations Legislation Amendment (Sanctions—Democratic People’s Republic of Korea and Iran) Regulation 2014*.

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(s)

Section 4 provides 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 this instrument has effect according to its terms.

Schedule 1 – Amendments

Charter of the United Nations (Sanctions - Democratic People’s Republic of Korea) Regulations 2008

Item [1] - Paragraph 5(1)(a), add text to the paragraph

Item [1] adds the text ‘determined by the Minister under subregulation (2)’ to the end of the paragraph.

Item [2] – Paragraph 5(1)(c) repeal and substitute the paragraph

Item [2] repeals the paragraph and substitutes a new subparagraph 5 (1)(c)(i) that refers to goods that are mentioned in a document that is specified by the Minister in Item 3.

Item [2] adds a new subparagraph 5 (1)(c)(ii) that states if no legislative instrument is in force under Item 3, then the goods mentioned in the documents in subregulation (4) of Item 3 will be export sanctioned goods.

Item [3] – Regulation 5, add text to the paragraph

Item [3] adds a new subparagraph (3) to Regulation 5, allowing the Minister, by legislative instrument, to specify documents for the purposes of subparagraph 5 (1)(c)(i) in Item 2.

Item [3] adds a new subparagraph (4) to Regulation 5, listing Security Council and International Atomic Energy Agency documents that mention goods that are part of the current definition of export sanctioned goods for Item 2, and will remain part of the definition if no legislative instrument is in force under the new subparagraph (3) to Regulation 5.

Item [4] – Paragraph 7(b) repeal and substitute the paragraph

Item [4] repeals the paragraph and substitutes a new paragraph that refers to goods mentioned in Item 3.

Charter of the United Nations (Sanctions - Iran) Regulations 2008

Item [5] – Subregulation 5(1)(a), repeal and substitute the subregulation

Item [5] repeals the paragraph and substitutes a reference in subparagraph 5(1)(a)(i) to goods mentioned in a document that has been specified by the Minister in accordance with Item 7.

Item [5] adds a new subparagraph 5 (1)(a)(ii) that states if no legislative instrument is in force under Item 7, then the goods mentioned in the documents in subparagraph 5 (1)(a)(ii) will be export sanctioned goods.

Item [6] – Subregulation 5(1)(d), omits and substitutes text

Item [6] omits the phrase ‘this regulation’ and substitutes ‘subregulation (2)’.

Item [7] – Insert a new Subregulation 5(1A)

Item [7] inserts a new subregulation that would allow the Minister, by legislative instrument, to specify a document for the purpose of subparagraph 5(1)(a)(i) in Item 5.

Item [8] - Subregulation 6(a), repeal and substitute the subregulation

Item [8] repeals the paragraph and substitutes a reference to goods mentioned in Item 7.