



Charter of the United Nations (Sanctions— Democratic People’s Republic of Korea) Amendment Regulation 2016

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 24 November 2016

Peter Cosgrove
Governor-General

By His Excellency’s Command

Julie Bishop
Minister for Foreign Affairs

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
<i>Charter of the United Nations (Sanctions—Democratic People’s Republic of Korea)</i>		
<i>Regulations 2008</i>		2

1 Name

This is the *Charter of the United Nations (Sanctions—Democratic People’s Republic of Korea) Amendment Regulation 2016*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	30 November 2016

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Democratic People’s Republic of Korea) Regulations 2008

1 Regulation 4

Insert:

Australian citizen has the same meaning as in the *Australian Citizenship Act 2007*.

authorised commercial activity means a sanctioned commercial activity authorised by a permit granted under regulation 14G.

2 Regulation 4 (paragraph (a) of the definition of *authorised service*)

Omit “regulation 14C”, substitute “regulation 14E”.

3 Regulation 4

Insert:

aviation fuel includes aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel and kerosene-type rocket fuel.

4 Regulation 4 (definition of *controlled asset*)

Repeal the definition, substitute:

controlled asset means:

- (a) an asset owned or controlled by:
 - (i) a designated person or entity; or
 - (ii) a person acting on behalf of or at the direction of a designated person or entity; or
 - (iii) an entity owned or controlled by a designated person or entity, including through illicit means; or
- (b) an asset derived from an asset owned or controlled, directly or indirectly, by:
 - (i) a designated person or entity; or
 - (ii) a person acting on behalf of or at the direction of a designated person or entity; or
 - (iii) an entity owned or controlled by a designated person or entity, including through illicit means.

5 Regulation 4

Insert:

correspondent banking relationship has the meaning given by section 5 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

6 Regulation 4 (definition of *designated person or entity*)

Repeal the definition, substitute:

designated person or entity means a person or entity that:

- (a) the Minister has designated under regulation 4A; or
- (b) the Committee or the Security Council designates for paragraph 8(d) of Resolution 1718.

Note: The list of designated persons and entities maintained by the Committee could in 2016 be viewed on the United Nations' website (<http://www.un.org>).

7 Regulation 4

Insert:

investment service means the following services and activities:

- (a) reception and transmission of orders in relation to one or more financial instruments;
- (b) execution of orders on behalf of clients;
- (c) dealing on own account;
- (d) portfolio management;
- (e) investment advice;
- (f) either or both of the following:
 - (i) underwriting of financial instruments;
 - (ii) placing of financial instruments on a firm commitment basis;
- (g) placing of financial instruments without a firm commitment basis;
- (h) any service in relation to the admission to trading on a regulated market or trading on a multilateral trading facility.

8 Regulation 4 (definition of *light weapon*)

Repeal the definition.

9 Regulation 4

Insert:

permanent resident has the same meaning as in the *Australian Citizenship Act 2007*.

Resolution 2087 means Resolution 2087 (2013) of the Security Council, adopted on 22 January 2013.

Resolution 2094 means Resolution 2094 (2013) of the Security Council, adopted on 7 March 2013.

Resolution 2270 means Resolution 2270 (2016) of the Security Council, adopted on 2 March 2016.

sanctioned commercial activity has the meaning given by regulation 8A.

10 Regulation 4 (definition of *small arm*)

Repeal the definition.

11 After regulation 4

Insert:

4A Designation of persons or entities

For the purposes of paragraph (a) of the definition of *designated person or entity*, the Minister may, by legislative instrument, designate an entity of:

- (a) the government of the Democratic People's Republic of Korea; or
 - (b) the Workers' Party of the Democratic People's Republic of Korea;
- if the Minister is satisfied that the entity is associated with either or both of the following:
- (c) the nuclear or ballistic missile programs, or other weapons of mass destruction programs, of the Democratic People's Republic of Korea;
 - (d) activities prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.

12 After subregulation 5(1)(a)

Insert:

- (aa) aviation fuel;

13 At the end of subregulation 5(1)

Add:

- ; (e) goods that the Minister has determined could contribute to:
 - (i) the nuclear or ballistic missile programs, or other weapons of mass destruction programs, of the Democratic People's Republic of Korea;
 - or
 - (ii) activities prohibited, or the evasion of measures imposed, by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.

14 At the end of regulation 5

Add:

- (5) The Minister may, by legislative instrument, determine goods for the purposes of paragraph (1)(e).

15 Subregulation 6(2)

Repeal the subregulation, substitute:

- (2) A person also makes a *sanctioned supply* if:
 - (a) the person transfers to another person:
 - (i) any financial or other assets or resources, including bulk cash; or
 - (ii) gold, including through gold couriers; and
 - (b) that transfer could contribute to:
 - (i) the nuclear or ballistic missile programs, or other weapons of mass destruction programs, of the Democratic People's Republic of Korea;
 - or
 - (ii) activities prohibited, or the evasion of measures imposed, by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.

16 Regulation 7

Before “For”, insert “(1)”.

17 After paragraph 7(a)

Insert:

(aa) gold, titanium ore, vanadium ore or rare earth minerals;

18 At the end of regulation 7

Add:

; (d) goods that the Minister has determined could contribute to:

- (i) the nuclear or ballistic missile programs, or other weapons of mass destruction programs, of the Democratic People’s Republic of Korea; or
- (ii) activities prohibited, or the evasion of measures imposed, by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.

(2) The Minister may, by legislative instrument, determine goods for the purposes of paragraph (1)(d).

19 Paragraph 8(1)(a)

Omit “the goods mentioned in paragraphs 5(1)(a), (c) and (d)”, substitute “goods mentioned in paragraphs 5(1)(a), (c), (d) or (e) for the benefit of the Democratic People’s Republic of Korea”.

20 Paragraph 8(1)(b)

Repeal the paragraph, substitute:

- (b) the provision to any person of technical training, advice, services or assistance, if:
 - (i) it assists with the manufacture, maintenance or use of goods mentioned in paragraphs 5(1)(a), (c), (d) or (e); or
 - (ii) it could contribute to the proliferation of sensitive nuclear activities or the development of nuclear weapon delivery systems in the Democratic People’s Republic of Korea;

21 Paragraph 8(1)(d)

Omit “(other than small arms or light weapons)”.

22 After paragraph 8(1)(d)

Insert:

- (da) the leasing or chartering of an Australian ship or Australian aircraft to:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person who is a resident or national of the Democratic People’s Republic of Korea; or
 - (iii) a designated person or entity; or
 - (iv) a person or entity determined by the Minister, by legislative instrument, to have assisted in the evasion of sanctions or in violating Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094

- or Resolution 2270, or any other relevant Resolution of the Security Council; or
- (v) any other person acting on behalf, or at the direction, of a person or entity mentioned in subparagraph (i), (ii), (iii) or (iv);
- (db) the crewing of a ship or aircraft, used to provide a service in, to or from the Democratic People's Republic of Korea, with Australian citizens or permanent residents;

23 Subparagraph 8(1)(f)(i)

After “programs”, insert “, or other weapons of mass destruction programs,”.

24 Subparagraph 8(1)(f)(ii)

Repeal the subparagraph, substitute:

- (ii) another activity prohibited, or the evasion of measures imposed, by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council;

25 At the end of subregulation 8(1)

Add:

- (g) the provision of public or private financial support for the purposes of trade with the Democratic People's Republic of Korea, if the provision of that financial support could contribute to:
 - (i) the nuclear or ballistic missile programs, or other weapons of mass destruction programs, of the Democratic People's Republic of Korea; or
 - (ii) activities prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.

Note: Subparagraph (b)(ii)—the kind of technical training that could contribute to those activities or systems includes training in advanced physics, advanced computer simulation and related computer sciences, geospatial navigation, nuclear engineering, aerospace engineering, aeronautical engineering and related disciplines.

26 After subregulation 8(1)

Insert:

- (1A) The Minister may, by legislative instrument, determine individuals or entities for the purposes of subparagraph (1)(da)(iv).
- (1B) For the purposes of these Regulations, a *sanctioned service* is also the provision to a person of an investment service if it assists with, or is provided in relation to, a sanctioned commercial activity.

27 At the end of Part 1

Add:

8A Sanctioned commercial activity

- (1) For the purposes of these Regulations, *sanctioned commercial activity* means:

- (a) the opening in Australia of a representative office of an entity or person mentioned in an item of the following table; or
- (b) the establishment in Australia of a branch or subsidiary of an entity or person mentioned in an item of the following table; or
- (c) the conclusion by a person of an agreement, for or on behalf of an entity or person mentioned in an item of the following table, related to:
 - (i) the opening in Australia of a representative office of that entity or person; or
 - (ii) the establishment in Australia of a branch or subsidiary of that entity or person.

Item	Entity or person
1	A financial institution domiciled in the Democratic People's Republic of Korea
2	A branch or subsidiary, wherever located, of a financial institution domiciled in the Democratic People's Republic of Korea
3	A financial institution, wherever domiciled, that is controlled by an entity or person domiciled in the Democratic People's Republic of Korea

- (2) For the purposes of these Regulations, ***sanctioned commercial activity*** also means:
- (a) the establishment by a financial institution of a joint venture with an entity or person mentioned in an item of the following table; or
 - (b) the establishment by a financial institution of a correspondent banking relationship with an entity or person mentioned in an item of the following table; or
 - (c) the opening by a financial institution of a representative office in the Democratic People's Republic of Korea; or
 - (d) the establishment by a financial institution of a branch or subsidiary in the Democratic People's Republic of Korea; or
 - (e) the opening by a financial institution of a bank account with an entity or person mentioned in an item of the following table; or
 - (f) the acquisition or extension of an interest in an entity or person mentioned in an item of the following table by an Australian financial institution; or
 - (g) the sale by a person of an interest in an entity or person mentioned in an item of the following table to an Australian financial institution; or
 - (h) the making available by a person (other than by sale) of an interest in an entity or person mentioned in an item of the following table to an Australian financial institution.

Item	Entity or person
1	A financial institution domiciled in the Democratic People's Republic of Korea
2	A branch or subsidiary, wherever located, of a financial institution domiciled in the Democratic People's Republic of Korea
3	A financial institution, wherever domiciled, that is controlled by an entity or person domiciled in the Democratic People's Republic of Korea

8B Minister may give notice requiring closure of a bank account

- (1) The Minister may, by written notice, direct a person to close the person's bank account if the account provider is:
 - (a) a financial institution domiciled in the Democratic People's Republic of Korea; or
 - (b) a branch or subsidiary, wherever located, of a financial institution domiciled in the Democratic People's Republic of Korea; or
 - (c) a financial institution, wherever domiciled, that is controlled by an entity or a person domiciled in the Democratic People's Republic of Korea.
- (2) However, the Minister may only give notice to a person under this regulation if the Minister has reasonable grounds to believe that the person's holding of the bank account could contribute to:
 - (a) the nuclear or ballistic missile programs, or other weapons of mass destruction programs, of the Democratic People's Republic of Korea; or
 - (b) activities prohibited, or the evasion of measures imposed, by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.
- (3) The Minister need not give notice to a person under this regulation in respect of a bank account if the Committee has determined that the bank account:
 - (a) is used to pay funds to ensure the delivery of humanitarian assistance; or
 - (b) involves the activities of a diplomatic mission in the Democratic People's Republic of Korea under the Vienna Convention on Diplomatic Relations; or
 - (c) involves the activities of the United Nations, or a specialised agency or related organisation of the United Nations; or
 - (d) is for a purpose that is consistent with Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.

Note: Paragraph (b)—the Vienna Convention on Diplomatic Relations is in Australian Treaty Series 1968 No. 3 ([1968] ATS 3) and could in 2016 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

Part 1A—Sanctions laws

8C Offence for exporting items (other than export sanctioned goods etc.)

- (1) A person commits an offence if:
 - (a) the person exports an item to:
 - (i) the Democratic People's Republic of Korea; or
 - (ii) a person or entity in the Democratic People's Republic of Korea; and
 - (b) the item is not:
 - (i) an export sanctioned good; or
 - (ii) food or medicine; and
 - (c) the export of the item:
 - (i) is not authorised by a permit under regulation 14A; or

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- (ii) is not in accordance with a condition specified in a permit under regulation 14A.

Penalty: 50 penalty units.

- (2) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence against subregulation (1).
- (3) A person, whether or not in Australia, and whether or not an Australian citizen, commits an offence if:
 - (a) the person uses the services of an Australian ship or Australian aircraft to export an item to:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and
 - (b) the item is not:
 - (i) an export sanctioned good; or
 - (ii) food or medicine; and
 - (c) the export of the item:
 - (i) is not authorised by a permit under regulation 14A; or
 - (ii) is not in accordance with a condition specified in a permit under regulation 14A.

Penalty: 50 penalty units.

- (4) A body corporate commits an offence 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 exports an item to:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and
 - (c) the item is not:
 - (i) an export sanctioned good; or
 - (ii) food or medicine; and
 - (d) the export of the item:
 - (i) is not authorised by a permit under regulation 14A; or
 - (ii) is not in accordance with a condition specified in a permit under regulation 14A.

Penalty: 50 penalty units.

8D Offence for importing items (other than import sanctioned goods etc.)

- (1) A person commits an offence if:
 - (a) the person imports an item from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and
 - (b) the item is not:
 - (i) an import sanctioned good; or
 - (ii) food or medicine; or
 - (iii) coal, iron or iron ore; and

- (c) the import of the item:
 - (i) is not authorised by a permit under regulation 14C; or
 - (ii) is not in accordance with a condition specified in a permit under regulation 14C.

Penalty: 50 penalty units.

- (2) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence against subregulation (1).
- (3) A person, whether or not in Australia, and whether or not an Australian citizen, commits an offence if:
 - (a) the person uses the services of an Australian ship or Australian aircraft to import an item from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and
 - (b) the item is not:
 - (i) an import sanctioned good; or
 - (ii) food or medicine; or
 - (iii) coal, iron or iron ore; and
 - (c) the import of the item:
 - (i) is not authorised by a permit under regulation 14C; or
 - (ii) is not in accordance with a condition specified in a permit under regulation 14C.

Penalty: 50 penalty units.

- (4) A body corporate commits an offence 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 imports an item from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and
 - (c) the item is not:
 - (i) an import sanctioned good; or
 - (ii) food or medicine; or
 - (iii) coal, iron or iron ore; and
 - (d) the import of the item:
 - (i) is not authorised by a permit under regulation 14C; or
 - (ii) is not in accordance with a condition specified in a permit under regulation 14C.

Penalty: 50 penalty units.

8E Offence for procuring coal, iron or iron ore

- (1) A person commits an offence if:
 - (a) the person procures goods from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and

-
- (b) the goods are coal, iron or iron ore; and
 - (c) the procurement of the goods:
 - (i) is not authorised by a permit under regulation 14D; or
 - (ii) is not in accordance with a condition specified in a permit under regulation 14D.

Penalty: 50 penalty units.

- (2) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence against subregulation (1).
- (3) A person, whether or not in Australia, and whether or not an Australian citizen, commits an offence if:
 - (a) the person uses the services of an Australian ship or Australian aircraft to transport goods, in the course of, or for the purpose of, procuring the goods from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and
 - (b) the goods are coal, iron or iron ore; and
 - (c) the procurement of the goods:
 - (i) is not authorised by a permit under regulation 14D; or
 - (ii) is not in accordance with a condition specified in a permit under regulation 14D.

Penalty: 50 penalty units.

- (4) A body corporate commits an offence 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 procures goods from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and
 - (c) the goods are coal, iron or iron ore; and
 - (d) the procurement of the goods:
 - (i) is not authorised by a permit under regulation 14D; or
 - (ii) is not in accordance with a condition specified in a permit under regulation 14D.

Penalty: 50 penalty units.

28 Part 2 (heading)

Repeal the heading, substitute:

Part 2—UN sanction enforcement laws and authorisations

29 Before regulation 9

Insert:

Division 1—UN sanction enforcement laws

30 After subregulation 10(2)

Insert:

- (2A) A person contravenes this regulation if:
- (a) the person receives import sanctioned goods from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and
 - (b) the import sanctioned goods are received for the purposes of repair, servicing, refurbishing, testing, reverse-engineering or marketing by the person or another person.

31 At the end of subregulation 10(3)

Add “or (2A)”.

32 Subregulation 10(4)

After “procuring”, insert “or receiving”.

33 After subregulation 10(5)

Insert:

- (6) 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 receives import sanctioned goods from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; and
 - (c) the import sanctioned goods are received for the purposes of repair, servicing, refurbishing, testing, reverse engineering or marketing by the other body corporate or entity or another person.

34 Paragraph 11A(3)(a)

Omit “regulation 14A”, substitute “regulation 14F”.

35 After regulation 11A

Insert:

11B Prohibitions relating to engaging in sanctioned commercial activity

Prohibition—persons

- (1) A person contravenes this regulation if:
- (a) the person engages in a sanctioned commercial activity; and
 - (b) the sanctioned commercial activity is not an authorised commercial activity.

Note: Paragraph (b)—see subregulation (4).

Extraterritorial operation

- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of this regulation.

Note: This has the effect that the offence has extraterritorial operation.

Prohibition—body corporates

- (3) 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 engages in a sanctioned commercial activity; and
 - (c) the sanctioned commercial activity is not an authorised commercial activity.

Note: Paragraph (b)—see subregulation (4).

Strict liability

- (4) Strict liability applies to the circumstance mentioned in paragraph (1)(b) and (3)(c) that the sanctioned commercial activity is not an authorised commercial activity.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: A sanctioned commercial activity is not an authorised commercial activity if it is not carried out in accordance with a permit under regulation 14G.

Note 3: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

11C Prohibitions relating to holding a bank account

- (1) A person contravenes this regulation if:
- (a) the person holds a bank account; and
 - (b) the account provider is:
 - (i) a financial institution domiciled in the Democratic People's Republic of Korea; or
 - (ii) a branch or subsidiary, wherever located, of a financial institution domiciled in the Democratic People's Republic of Korea; or
 - (iii) a financial institution, wherever domiciled, that is controlled by an entity or person domiciled in the Democratic People's Republic of Korea; and
 - (c) the Minister has directed the person, by written notice under regulation 8B, to close the bank account; and
 - (d) the person fails to comply with the notice.

Note: Paragraph (c)—see subregulation (4).

- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).

Note: This has the effect that the offence has extraterritorial operation.

- (3) 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 holds a bank account; and
- (c) the account provider is:
 - (i) a financial institution domiciled in the Democratic People's Republic of Korea; or
 - (ii) a branch or subsidiary, wherever located, of a financial institution domiciled in the Democratic People's Republic of Korea; or
 - (iii) a financial institution, wherever domiciled, that is controlled by an entity or person domiciled in the Democratic People's Republic of Korea; and
- (d) the Minister has directed the other body corporate or entity, by written notice under regulation 8B, to close the bank account; and
- (e) the other body corporate or entity fails to comply with the notice.

Note: Paragraph (d)—see subregulation (4).

- (4) Strict liability applies to paragraphs (1)(c) and (3)(d).

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

11D Prohibition on vessel ownership and registration etc.

- (1) A person contravenes this regulation if:
- (a) the person does any of the following:
 - (i) registers a vessel in the Democratic People's Republic of Korea;
 - (ii) obtains an authority that entitles a vessel to fly the flag of the Democratic People's Republic of Korea;
 - (iii) provides a classification or certification service, or related service, in respect of a vessel for the purpose of it becoming, or maintaining its registration as, a DPRK vessel;
 - (iv) leases or operates a DPRK vessel;
 - (v) insures a DPRK vessel; and
 - (b) that action is not:
 - (i) authorised by a permit under regulation 14H; or
 - (ii) an activity covered by subregulation 14H(2).

- (2) A person contravenes this regulation if:

- (a) the person owns a DPRK vessel; and
- (b) ownership of the DPRK vessel is not authorised by a permit under regulation 14H.

- (3) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1) or (2).

Note: This has the effect that the offence has extraterritorial operation.

- (4) 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 does any of the following:

-
- (i) registers a vessel in the Democratic People’s Republic of Korea;
 - (ii) obtains authority that a vessel is entitled to fly the flag of the Democratic People’s Republic of Korea;
 - (iii) provides a classification or certification service, or related service, in respect of a vessel for the purpose of it becoming, or maintaining its registration as, a DPRK vessel;
 - (iv) leases or operates a DPRK vessel;
 - (v) insures a DPRK vessel; and
 - (c) that action is not:
 - (i) authorised by a permit under regulation 14H; or
 - (ii) an activity covered by subregulation 14H(2).
- (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 owns a DPRK vessel; and
 - (c) ownership of the DPRK vessel is not authorised by a permit under regulation 14H.

Note: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

11E Prohibition on services relating to arms and related matériel

- (1) A person contravenes this regulation if:
- (a) the person procures technical training, advice, services or assistance from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; or
 - (iii) a national of the Democratic People’s Republic of Korea; and
 - (b) that procurement is related to the provision, manufacture, maintenance or use of arms and related matériel.
- (2) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (1).
- Note: This has the effect that the offence has extraterritorial operation.
- (3) 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 procures technical training, advice, services or assistance from:
 - (i) the Democratic People’s Republic of Korea; or
 - (ii) a person or entity in the Democratic People’s Republic of Korea; or
 - (iii) a national of the Democratic People’s Republic of Korea; and
 - (c) that procurement is related to the provision, manufacture, maintenance or use of arms and related matériel.

Note: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

11F When Minister must direct vessel not to enter any port or place in Australia

- (1) Subject to subregulation (3), the Minister must direct, in writing, a vessel not to enter any port or place in Australia if the Minister has reasonable grounds to believe that:
 - (a) the vessel is owned or controlled, directly or indirectly, by a designated person or entity within the meaning of paragraph (b) of the definition of that expression; or
 - (b) the vessel contains cargo and the supply, sale, transfer or export of that cargo is prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.
- (2) Before giving a direction, the Minister must have regard to Australia's obligations at international law.
- (3) The Minister must not give a direction relating to a vessel under subregulation (1) if:
 - (a) the vessel needs to enter a port or place in Australia:
 - (i) because of an emergency; or
 - (ii) for inspection; or
 - (b) both:
 - (i) the vessel needs to enter a port or place in Australia for humanitarian purposes or for any other purposes consistent with the objectives of Resolution 2270; and
 - (ii) the vessel's entry has been approved in advance by the Committee.

11G Prohibition relating to sanctioned vessels

A person contravenes this regulation if:

- (a) the person has command or charge of a vessel; and
- (b) the person is not the vessel's pilot; and
- (c) a direction relating to the vessel has been given under regulation 11F; and
- (d) the vessel enters a port or place in Australia.

Note: This regulation is a UN sanction enforcement law as specified by the Minister under the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

36 Paragraph 12(2)(b)

Repeal the paragraph, substitute:

- (b) the making available of the asset is not:
 - (i) authorised by a permit under regulation 14; or
 - (ii) covered by a circumstance mentioned in subregulation 14(8).

37 Paragraph 13(2)(c)

Repeal the paragraph, substitute:

- (c) the use or dealing is not:
 - (i) authorised by a permit under regulation 14; or
 - (ii) covered by a circumstance mentioned in subregulation 14(8).

38 After regulation 13

Insert:

Division 2—Authorisations**13A Minister may grant permits**

- (1) The Minister may grant a permit under this Division:
 - (a) on the Minister's initiative; or
 - (b) on application by a person.

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

- (2) A permit may be granted subject to conditions specified in the permit.

39 Subregulation 14(1)

Omit “, on application,”.

40 Subregulations 14(2), (3) and (4)

Repeal the subregulations, substitute:

- (2) If an application is made for a permit, the application must specify whether it is an application for:
 - (a) a basic expense dealing; or
 - (b) a legally required dealing; or
 - (c) an extraordinary expense dealing.

Note: For the meanings of the permissible dealings mentioned in paragraphs (a), (b) and (c), see regulation 5 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008*.

41 At the end of regulation 14

Add:

- (8) The Minister need not grant a permit in respect of an asset and a designated person or entity within the meaning of paragraph (a) of the definition of that expression if:
 - (a) the asset is required to carry out activities of:
 - (i) the Democratic People's Republic of Korea's missions to the United Nations, or a specialised agency or related organisation of the United Nations; or
 - (ii) other diplomatic or consular missions of the Democratic People's Republic of Korea; or
 - (b) the Committee has determined that the asset is required for the delivery of humanitarian assistance, denuclearisation or any other purpose consistent with the objectives of Resolution 2270.

42 Regulations 14A, 14B and 14C

Repeal the regulations, substitute:

14A Permit to export items (other than export sanctioned goods etc.)

- (1) The Minister may grant a person a permit authorising the export of an item.

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

- (2) The Minister may grant a permit if the Minister is satisfied that the item proposed to be exported is not an item that could directly contribute to the development of the operational capabilities of:
- (a) the armed forces of the Democratic People's Republic of Korea; or
 - (b) the armed forces of a Member State outside the Democratic People's Republic of Korea.
- (3) However, if the Minister is not so satisfied in respect of the item proposed to be exported, the Minister may grant a permit in respect of the item if:
- (a) all of the following are satisfied:
 - (i) the item is being exported for humanitarian purposes or exclusively for the livelihood of the Democratic People's Republic of Korea;
 - (ii) the item will not be used by a person or entity in the Democratic People's Republic of Korea to generate revenue;
 - (iii) the item does not relate to any activity prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council;
 - (iv) the Committee has been notified of the proposed export in advance;
 - (v) the Committee has been informed of measures taken to prevent the diversion of the item for such other purposes; or
 - (b) the Committee has been notified of the proposed export and the Committee has determined that it would not be contrary to the objectives of Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.

14B Permit to make a sanctioned supply

- (1) The Minister may 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 regulation.

- (2) The Minister may grant a permit only if the sanctioned supply is a supply, sale or transfer of aviation fuel.
- (3) The Minister must not grant a permit unless the supply, sale or transfer of the aviation fuel is to address essential humanitarian needs and the Committee has approved its supply.

14C Permit to import items or goods (other than import sanctioned goods etc.)

- (1) The Minister may grant a person a permit authorising the import of an item.

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

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- (2) The Minister may grant a permit if the Minister is satisfied that the item proposed to be imported is not an item that could directly contribute to the development of the operational capabilities of:
- (a) the armed forces of the Democratic People’s Republic of Korea; or
 - (b) the armed forces of a Member State outside the Democratic People’s Republic of Korea.
- (3) However, if the Minister is not so satisfied in respect of the item proposed to be imported, the Minister may grant a permit in respect of the item if:
- (a) all of the following are satisfied:
 - (i) the item is being imported for humanitarian purposes or exclusively for the livelihood of the Democratic People’s Republic of Korea;
 - (ii) the item will not be used by a person or entity in the Democratic People’s Republic of Korea to generate revenue;
 - (iii) the item does not relate to any activity prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council;
 - (iv) the Committee has been notified of the proposed import in advance;
 - (v) the Committee has been informed of measures taken to prevent the diversion of the item for such other purposes; or
 - (b) the Committee has been notified of the proposed import and the Committee has determined that it would not be contrary to the objectives of Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.

14D Permit to procure coal, iron or iron ore

- (1) The Minister may grant a person a permit authorising the procurement of coal, iron or iron ore.

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

- (2) The Minister may grant a permit only if:
- (a) in relation to coal—all of the following are satisfied:
 - (i) the Minister is able to confirm, on reasonable grounds, that the coal originated outside the Democratic People’s Republic of Korea and was transported through the Democratic People’s Republic of Korea solely for export from the Port of Rajin (Rason);
 - (ii) the procurement was notified to the Committee in advance;
 - (iii) the procurement is unrelated to generating revenue for the nuclear or ballistic missile programs, or other weapons of mass destruction programs, of the Democratic People’s Republic of Korea or for activities prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094, or any other relevant Resolution of the Security Council; or
 - (b) in relation to coal, iron or iron ore—the procurement is:
 - (i) exclusively for the livelihood of the Democratic People’s Republic of Korea; and
 - (ii) unrelated to generating revenue for the nuclear or ballistic missile programs, or other weapons of mass destruction programs, of the Democratic People’s Republic of Korea or for activities prohibited by

Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094, or any other relevant Resolution of the Security Council.

14E Permit to provide crewing services etc.

- (1) The Minister may grant a person a permit authorising the provision of a sanctioned service if the service involves:
 - (a) the leasing or chartering of an Australian ship or Australian aircraft to a person or entity mentioned in paragraph 8(1)(da); or
 - (b) the crewing of a ship or aircraft, used to provide a service in, to or from the Democratic People's Republic of Korea, with Australian citizens or permanent residents.

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

- (2) The Minister may grant a permit only if:
 - (a) the Committee has been notified of the proposed service in advance; and
 - (b) the notification is accompanied by the following information:
 - (i) information demonstrating that the proposed service is being provided in connection with activities exclusively for the livelihood of the Democratic People's Republic of Korea and not in connection with activities by a person or entity in the Democratic People's Republic of Korea to generate revenue;
 - (ii) information of measures taken to prevent activities to which the proposed service relates from contributing to violations of Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270, or any other relevant Resolution of the Security Council.

14F Permit to provide a bunkering service

- (1) The Minister may 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 regulation.

- (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 the provision of the bunkering service:
 - (a) is for humanitarian purposes; or
 - (b) is necessary to facilitate the inspection, seizure or disposal of such goods.
- (3) If paragraph (2)(b) applies, the Minister must only grant a permit for a specified period to enable the inspection, seizure or disposal of such goods to occur.

14G Permit to provide sanctioned commercial activity

- (1) The Minister may grant to a person a permit that authorises the person to engage in a specified sanctioned commercial activity.

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

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- (2) The Minister must not grant a permit unless the specified sanctioned commercial activity was approved by the Committee in advance.

14H Permit to own and register vessels etc.

- (1) The Minister may grant a person a permit authorising any of the following:
- (a) ownership of a DPRK vessel;
 - (b) registration of a vessel in the Democratic People's Republic of Korea;
 - (c) the obtaining of an authority that entitles a vessel to fly the flag of the Democratic People's Republic of Korea;
 - (d) the provision of a classification or certification service, or related service, in respect of a vessel for the purpose of it becoming, or maintaining its registration as, a DPRK vessel;
 - (e) the lease or operation of a DPRK vessel;
 - (f) the insuring of a DPRK vessel.

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

- (2) The Minister need not grant a permit in respect of a vessel if the Committee is notified in advance of the following:
- (a) the activities in which the vessel will be involved;
 - (b) the names of individuals and entities involved in such activities;
 - (c) information demonstrating that:
 - (i) such activities are exclusively for the livelihood of the Democratic People's Republic of Korea; and
 - (ii) the vessel is not being used by a person or entity in the Democratic People's Republic of Korea to generate revenue; and
 - (iii) measures are being taken to prevent such activities from contributing to violations of Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094, or any other relevant Resolution of the Security Council.

43 After regulation 15

Insert:

15A No claim for breach of contract or failure to perform transaction

- (1) This regulation applies to:
- (a) the government of the Democratic People's Republic of Korea; and
 - (b) the following persons and entities:
 - (i) a person who is resident or national of the Democratic People's Republic of Korea;
 - (ii) a person or entity subject to the jurisdiction of the Democratic People's Republic of Korea;
 - (iii) a designated person or entity;
 - (iv) a person or entity able to claim through, or for the benefit of, the government of the Democratic People's Republic of Korea or a person or entity mentioned in subparagraph (i), (ii) or (iii).

- (2) The government of the Democratic People's Republic of Korea, or the person or entity, must not make a claim or demand, or take any action, against any other person or entity for breach of contract or a failure to perform a transaction if the performance of the contract or transaction was prevented:
- (a) under these Regulations; or
 - (b) because of resolutions relating to the Democratic People's Republic of Korea, as existing from time to time.

Note: Resolutions relating to the Democratic People's Republic of Korea could in 2016 be viewed on the United Nations' website (<http://www.un.org>).

- (3) This regulation has effect despite any other law of the Commonwealth or any law of a State or Territory.