



Charter of the United Nations (Sanctions— Democratic People’s Republic of Korea) Amendment (2017 Measures No. 1) Regulations 2017

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 regulations.

Dated 27 June 2017

Peter Cosgrove
Governor-General

By His Excellency’s Command

Julie Bishop
Minister for Foreign Affairs

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1 Name

This instrument is the *Charter of the United Nations (Sanctions—Democratic People’s Republic of Korea) Amendment (2017 Measures No. 1) Regulations 2017*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	6 July 2017
2. Schedule 1, Part 1	The day after this instrument is registered.	6 July 2017
3. Schedule 1, Part 2	The day after the end of the period of 1 month beginning on the day this instrument is registered.	5 August 2017

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Amendments commencing day after registration

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

1 Regulation 4 (at the end of the definition of *controlled asset*)

Add:

- ; or (c) a vessel designated by the Committee for the purposes of paragraph 12(d) of Resolution 2321.

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

Repeal the definition, substitute:

designated person or entity means a person or entity:

- (a) designated by the Minister under regulation 4A; or
- (b) designated by the Security Council or the Committee for the purposes of paragraph 8(d) of Resolution 1718; or
- (c) to whom the measures mentioned in paragraph 8(d) of Resolution 1718 apply under a decision of the Security Council or the Committee.

Note: A list of persons and entities mentioned in paragraphs (b) and (c) could in 2017 be viewed on the United Nations’ website (<http://www.un.org>).

3 Regulation 4

Insert:

Resolution 2321 means Resolution 2321 (2016) of the Security Council, adopted on 30 November 2016.

4 Paragraph 5(1)(d)

Repeal the paragraph, substitute:

- (d) goods:
 - (i) determined by the Security Council or the Committee for the purposes of subparagraph 8(a)(i) or (ii) of Resolution 1718; or
 - (ii) to which the measures mentioned in paragraphs 8(a), (b) and (c) of Resolution 1718 apply under a decision of the Security Council or the Committee;

5 At the end of regulation 6

Add:

- (3) Despite subregulations (1) and (2), a person does not make a *sanctioned supply* merely because the person supplies, sells or transfers an amount of aviation fuel for:
 - (a) a flight of a civil passenger aircraft flagged or registered in the Democratic People’s Republic of Korea, so long as the amount does not exceed the amount necessary for that flight (including a standard margin for safety); or

- (b) a flight to the Democratic People's Republic of Korea of a civil passenger aircraft not flagged or registered in the Democratic People's Republic of Korea, so long as the amount does not exceed the amount necessary for that flight and the subsequent flight out of the Democratic People's Republic of Korea (including a standard margin for safety).

6 Paragraph 7(1)(c)

Repeal the paragraph, substitute:

- (c) goods:
- (i) determined by the Security Council or the Committee for the purposes of subparagraph 8(a)(i) or (ii) of Resolution 1718; or
 - (ii) to which the measures mentioned in paragraphs 8(a), (b) and (c) of Resolution 1718 apply under a decision of the Security Council or the Committee;

7 Subparagraph 8(1)(b)(ii)

Omit "the proliferation of", substitute "proliferation".

8 Subregulation 8(1) (note)

Repeal the note, substitute:

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

9 Subregulation 8B(2)

Repeal the subregulation.

10 Paragraph 8B(3)(d)

Omit "Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270," substitute "Resolution 2321".

11 Regulation 11F (heading)

Repeal the heading, substitute:

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

12 Before subregulation 11F(1)

Insert:

Vessels owned or controlled by certain designated persons or entities, or carrying prohibited cargo

13 Subregulation 11F(1)

Omit "subregulation (3)", substitute "subregulations (3) and (5)".

14 Subregulation 11F(1)

Omit "or place".

15 Paragraph 11F(1)(a)

Omit “paragraph (b)”, substitute “paragraph (b) or (c)”.

16 Subregulation 11F(2)

Repeal the subregulation.

17 Paragraph 11F(3)(a)

Omit “or place”.

18 After subparagraph 11F(3)(a)(i)

Insert:

(ia) to return to its port of origination; or

19 Subparagraph 11F(3)(b)(i)

Omit “or place”.

20 At the end of regulation 11F

Add:

Vessels designated by the Committee

(4) Subject to subregulation (5), if a vessel is designated by the Committee for the purposes of paragraph 12(c) of Resolution 2321, the Minister must direct, in writing, the vessel not to enter any port in Australia unless the vessel does so:

- (a) because of an emergency; or
- (b) to return to its port of origination; or
- (c) in accordance with a direction given by the Committee under paragraph 12(c) of Resolution 2321.

Australia’s obligations under international law

(5) The Minister is not required to give a direction under subregulation (1) or (4) if he or she is satisfied that the direction would be inconsistent with Australia’s obligations under international law.

21 Paragraph 11G(d)

Omit “or place”.

22 Subparagraph 14D(2)(a)(iii)

After “Resolution 2094,”, insert “Resolution 2270, Resolution 2321”.

23 Subregulation 14E(2)

Repeal the subregulation, substitute:

(2) The Minister may grant a permit only if the Committee has approved the proposed service in advance.

24 At the end of Division 2 of Part 2

Add:

14J Permit to engage in activity exempted under paragraph 46 of Resolution 2321

- (1) The Minister may grant a person a permit authorising the person to engage in a specified activity.
- (2) The Minister may grant a permit only if the Committee has exempted the activity in advance under paragraph 46 of Resolution 2321.
- (3) The provisions of Part 1A, and the provisions of Division 1 of this Part, do not apply to a person who engages in an activity in accordance with a permit granted under this regulation.

Part 2—Amendments commencing 1 month after registration

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

25 Regulation 4

Insert:

authorised scientific or technical cooperation means sanctioned scientific or technical cooperation authorised by a permit granted under regulation 14HB.

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

After “14E”, insert “or 14EA”.

27 Regulation 4

Insert:

DPRK flagged or registered vessel means a vessel entitled to fly the flag of the DPRK or registered in the DPRK.

import authorised goods means import sanctioned goods the procurement, receipt or transport of which is authorised by a permit granted under regulation 14HC.

sanctioned scientific or technical cooperation means scientific or technical cooperation involving persons or groups officially sponsored by the Democratic People’s Republic of Korea, or representing the Democratic People’s Republic of Korea, but does not include medical exchanges.

28 At the end of subregulation 5(1)

Add:

; (f) a new helicopter, or a new vessel, that is not arms or related matériel.

29 At the end of subregulation 7(1)

Add:

; (e) copper, nickel, silver or zinc;
(f) statues.

30 Paragraph 8(1)(da)

After “Australian aircraft”, insert “, or the provision of vessel or aircraft crewing services”.

31 At the end of paragraph 8(1)(da)

Add:

or (vi) any other entity owned or controlled by a person or entity mentioned in subparagraph (i), (ii), (iii) or (iv);

32 Paragraph 8(1)(db)

Repeal the paragraph.

33 Paragraph 8(1)(g)

Repeal the paragraph, substitute:

- (g) the provision of public or private financial support for the purposes of trade with the Democratic People's Republic of Korea;
- (h) the provision of vessel or aircraft crewing services from the Democratic People's Republic of Korea.

34 Subregulation 10(2)

Repeal the subregulation, substitute:

- (2) A person contravenes this regulation if:
 - (a) the person procures import sanctioned goods from the Democratic People's Republic of Korea or from a person or entity in the Democratic People's Republic of Korea; and
 - (b) the import sanctioned goods are not import authorised goods.

35 At the end of subregulation 10(2A)

Add:

- ; and (c) the import sanctioned goods are not import authorised goods.

36 Subregulation 10(4)

Omit all the words after "contravenes this regulation", substitute:

if:

- (a) the person uses the services of an Australian ship or an Australian aircraft to transport import sanctioned goods in the course of, or for the purpose of, procuring or receiving the goods from the Democratic People's Republic of Korea or from a person or entity in the Democratic People's Republic of Korea; and
- (b) the import sanctioned goods are not import authorised goods.

37 After paragraph 10(5)(b)

Insert:

- ; and (c) the import sanctioned goods are not import authorised goods.

38 Subregulation 10(5) (note)

Repeal the note.

39 At the end of subregulation 10(6)

Add:

- ; and (d) the import sanctioned goods are not import authorised goods.

40 At the end of regulation 10

Add:

- 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*.

41 Subparagraph 11D(1)(a)(iii)

Omit “in respect of a vessel for the purpose of it becoming, or maintaining its registration as, a DPRK vessel”, substitute “in respect of a DPRK flagged or registered vessel”.

42 Subparagraph 11D(1)(a)(iv)

Omit “DPRK vessel”, substitute “DPRK flagged or registered vessel”.

43 Subparagraph 11D(1)(a)(v)

Repeal the subparagraph, substitute:

- (v) insures a DPRK flagged or registered vessel;
- (vi) provides insurance or reinsurance services to a vessel owned, controlled or operated by the Democratic People’s Republic of Korea, or by a person or entity in, or a national of, the Democratic People’s Republic of Korea; and

44 Paragraph 11D(1)(b)

Repeal the paragraph, substitute:

- (b) that action is not authorised by a permit under regulation 14H.

45 Paragraph 11D(2)(a)

Omit “DPRK vessel”, substitute “DPRK flagged or registered vessel”.

46 Paragraph 11D(2)(b)

Omit “DPRK vessel is not authorised by a permit under regulation 14H”, substitute “vessel is not authorised by a permit under regulation 14HA”.

47 Subparagraph 11D(4)(b)(iii)

Omit “in respect of a vessel for the purpose of it becoming, or maintaining its registration as, a DPRK vessel”, substitute “in respect of a DPRK flagged or registered vessel”.

48 Subparagraph 11D(4)(b)(iv)

Omit “DPRK vessel”, substitute “DPRK flagged or registered vessel”.

49 Subparagraph 11D(4)(b)(v)

Repeal the subparagraph, substitute:

- (v) insures a DPRK flagged or registered vessel;
- (vi) provides insurance or reinsurance services to a vessel owned, controlled or operated by the Democratic People’s Republic of Korea, or by a person or entity in, or a national of, the Democratic People’s Republic of Korea; and

50 Paragraph 11D(4)(c)

Repeal the paragraph, substitute:

- (c) that action is not authorised by a permit under regulation 14H.

51 Paragraph 11D(5)(b)

Omit “DPRK vessel”, substitute “DPRK flagged or registered vessel”.

52 Paragraph 11D(5)(c)

Omit “DPRK vessel is not authorised by a permit under regulation 14H”, substitute “vessel is not authorised by a permit under regulation 14HA”.

53 Paragraph 12(2)(b)

Repeal the paragraph, substitute:

- (b) the making available of the asset is not authorised by a permit under regulation 14.

54 Paragraph 13(2)(c)

Repeal the paragraph, substitute:

- (c) the use or dealing is not authorised by a permit under regulation 14.

55 At the end of Division 1 of Part 2

Add:

13AA Prohibitions relating to engaging in sanctioned scientific or technical cooperation

Prohibition—persons

- (1) A person contravenes this regulation if:
 - (a) the person engages in sanctioned scientific or technical cooperation; and
 - (b) the sanctioned scientific or technical cooperation is not authorised scientific or technical cooperation.

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

Extraterritorial operation

- (2) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) 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—bodies corporate

- (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 sanctioned scientific or technical cooperation; and
 - (c) the sanctioned scientific or technical cooperation is not authorised scientific or technical cooperation.

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

Strict liability

- (4) Strict liability applies to the circumstance mentioned in paragraphs (1)(b) and (3)(c) that the sanctioned scientific or technical cooperation is not authorised scientific or technical cooperation.

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*.

56 Subregulation 14(8)

Repeal the subregulation, substitute:

- (8) However, subregulations (2), (5), (6) and (7) do not apply in relation to an application for a permit authorising:
- (a) the making available of an asset to a person or entity designated by the Minister under regulation 4A; or
 - (b) a use of, or dealing with, an asset that would be a controlled asset referred to in paragraph (a) or (b) of the definition of *controlled asset* in regulation 4 if each reference to a designated person or entity in those paragraphs were a reference only to a person or entity designated by the Minister under regulation 4A;

if:

- (c) 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
- (d) the Committee has determined in advance that the asset is required for the delivery of humanitarian assistance, denuclearisation or any other purpose consistent with the objectives of Resolution 2270.

57 Subregulations 14B(2) and (3)

Repeal the subregulations, substitute:

- (2) The Minister may grant a permit only if:
- (a) the sanctioned supply is a supply, sale or transfer of aviation fuel to address essential humanitarian needs; or
 - (b) the sanctioned supply is a supply, sale or transfer of a new vessel, or a new helicopter, that is not arms or related matériel.
- (3) The Minister must not grant a permit unless the Committee has approved the sanctioned supply in advance.

58 After paragraph 14D(2)(a)

Insert:

- (aa) in relation to coal—the procurement is in accordance with paragraph 29(b) of Resolution 2270, as amended by paragraph 26 of Resolution 2321; or

59 Paragraph 14D(2)(b)

Omit “coal,”.

60 Subparagraph 14D(2)(b)(ii)

After “Resolution 2094,” insert “Resolution 2270, Resolution 2321”.

61 Paragraph 14E(1)(b)

Repeal the paragraph, substitute:

- (b) the provision of vessel or aircraft crewing services to a person or entity mentioned in paragraph 8(1)(da).

62 After regulation 14E

Insert:

14EA Permit to provide public or private financial support for the purposes of trade

- (1) The Minister may grant a person a permit authorising the person to provide public or private financial support for the purposes of trade with the Democratic People's Republic of Korea.

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 Committee has approved the provision of the financial support in advance.

63 Regulation 14H

Repeal the regulation, substitute:

14H Permit to register vessel etc.

- (1) The Minister may grant a person a permit authorising a specified action referred to in paragraph 11D(1)(a) or (4)(b) in relation to a vessel.

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) for a permit authorising an action referred to in subparagraph 11D(1)(a)(i) to (v) or (4)(b)(i) to (v)—the Committee has approved the action in advance; and
 - (b) for a permit authorising an action referred to in subparagraph 11D(1)(a)(vi) or (4)(b)(vi)—a determination referred to in paragraph 22 of Resolution 2321 is in effect in relation to the vessel.

Note: Both paragraphs (a) and (b) of this subregulation may apply to a particular permit (for example, the provision of insurance services to a vessel that is registered in the Democratic People's Republic of Korea and also owned by a national of the Democratic People's Republic of Korea may be an action referred to in both subparagraphs 11D(1)(a)(v) and (a)(vi)).

14HA Permit to own vessel

- (1) The Minister may grant a person a permit authorising the ownership of a DPRK flagged or registered vessel.

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 Committee has approved the ownership in advance.

14HB Permit to engage in scientific or technical cooperation

- (1) The Minister may grant a person a permit authorising the person to engage in specified sanctioned scientific or technical cooperation.

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

- (2) If the sanctioned scientific or technical cooperation is in any of the following fields:

- (a) nuclear science and technology;
- (b) aerospace or aeronautical engineering and technology;
- (c) advanced manufacturing production techniques and methods;

the Minister may grant a permit for the cooperation only if the Committee has determined that the cooperation will not contribute to the Democratic People's Republic of Korea's proliferation sensitive nuclear activities or ballistic missile-related programs.

- (3) If the sanctioned scientific or technical cooperation is not in a field mentioned in subregulation (2), the Minister may grant a permit for the cooperation only if:

- (a) the Minister is satisfied that the cooperation will not contribute to the Democratic People's Republic of Korea's proliferation sensitive nuclear activities or ballistic missile-related programs; and
- (b) the Committee has been notified that the Minister is so satisfied.

14HC Permit to procure statue

- (1) The Minister may grant a person a permit authorising the person to procure, receive or transport a specified import sanctioned good that is a statue.

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 Committee has approved the procurement, receipt or transport in advance.