



# **Charter of the United Nations (Sanctions— Democratic People’s Republic of Korea) Amendment (2017 Measures No. 2) Regulations 2017**

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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 02 November 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. 2) 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. The whole of this instrument	The day after this instrument is registered.	4 November 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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

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

#### 1 Section 4

Insert:

*Australian flagged vessel* means a vessel entitled to fly the flag of Australia.

#### 2 Section 4 (paragraph (c) of the definition of *controlled asset*)

Repeal the paragraph, substitute:

- (c) a vessel that is, as a result of being designated by the Committee, subject to the asset freeze imposed by paragraph 8(d) of Resolution 1718.

#### 3 Section 4

Insert:

*DPRK person or entity* means any of the following:

- (a) the government of the DPRK;
- (b) the Workers’ Party of Korea;
- (c) the Korean People’s Army;
- (d) a public body, corporation or agency of the DPRK;
- (e) an entity formed or incorporated in the DPRK;
- (f) an official of an entity referred to in paragraph (a), (b), (c), (d) or (e);
- (g) an individual who is in, or a resident of, the DPRK.

#### 4 Section 4 (definition of *import authorised goods*)

Omit “14HC”, substitute “14D or 14DA”.

#### 5 Section 4

Insert:

*Resolution 2356* means Resolution 2356 (2017) of the Security Council, adopted on 2 June 2017.

*Resolution 2371* means Resolution 2371 (2017) of the Security Council, adopted on 5 August 2017.

*Resolution 2375* means Resolution 2375 (2017) of the Security Council, adopted on 11 September 2017.

#### 6 After paragraph 5(1)(aa)

Insert:

- (ab) condensates and natural gas liquids;
- (ac) refined petroleum products;
- (ad) crude oil;

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**7 At the end of subregulation 7(1)**

Add:

- ; (g) coal, iron or iron ore;
- (h) lead or lead ore;
- (i) seafood (including fish, crustaceans, molluscs and other aquatic invertebrates);
- (j) textiles (including fabrics and partially or fully completed apparel products).

**8 At the end of subregulation 8(1B)**

Add “mentioned in subregulation 8A(1) or (2)”.

**9 At the end of regulation 8A**

Add:

- (3) For the purposes of these Regulations, *sanctioned commercial activity* also means the establishment, maintenance or operation of a joint venture or cooperative entity (however described) with:
  - (a) a DPRK person or entity; or
  - (b) a person or entity acting on behalf of, or at the direction of, a DPRK person or entity; or
  - (c) an entity owned or controlled by a DPRK person or entity.
- (4) However, subregulation (3) does not apply to the maintenance or operation of a joint venture or cooperative entity that was established before the commencement of that subregulation until:
  - (a) 10 January 2018; or
  - (b) if a request has been made before 10 January 2018 to the Committee for approval of the joint venture or cooperative entity—120 days after the Committee makes a decision on the request.

**10 Subparagraph 8D(1)(b)(ii)**

Omit “medicine; or”, substitute “medicine; and”.

**11 Subparagraph 8D(1)(b)(iii)**

Repeal the subparagraph.

**12 Subparagraph 8D(3)(b)(ii)**

Omit “medicine; or”, substitute “medicine; and”.

**13 Subparagraph 8D(3)(b)(iii)**

Repeal the subparagraph.

**14 Subparagraph 8D(4)(c)(ii)**

Omit “medicine; or”, substitute “medicine; and”.

**15 Subparagraph 8D(4)(c)(iii)**

Repeal the subparagraph.

## 16 Regulation 8E

Repeal the regulation.

## 17 At the end of regulation 11A

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*.

## 18 After regulation 11A

Insert:

### 11AA Prohibition relating to ship-to-ship transfers

- (1) A person contravenes this regulation if:
  - (a) the person:
    - (i) transfers goods from a vessel to a DPRK flagged or registered vessel; or
    - (ii) transfers goods from a DPRK flagged or registered vessel to another vessel; or
    - (iii) facilitates a transfer of goods between a DPRK flagged or registered vessel and another vessel; and
  - (b) the goods are being exported from or imported into the Democratic People's Republic of Korea.
- (2) 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:
    - (i) transfers goods from a vessel to a DPRK flagged or registered vessel; or
    - (ii) transfers goods from a DPRK flagged or registered vessel to another vessel; or
    - (iii) facilitates a transfer of goods between a DPRK flagged or registered vessel and another vessel; and
  - (c) the goods are being exported from or imported into the Democratic People's Republic of Korea.

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*.

## 19 After subparagraph 11D(1)(a)(iv)

Insert:

- (iva) charters a DPRK flagged or registered vessel;

## 20 After subparagraph 11D(4)(b)(iv)

Insert:

- (iva) charters a DPRK flagged or registered vessel;

## 21 Regulations 11F and 11G

Repeal the regulations, substitute:

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**11F Minister's directions to vessels not to enter any port in Australia**

- (1) The Minister must direct a vessel not to enter any port 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) or (c) of the definition of that expression; or
  - (b) the vessel contains cargo the supply, sale, transfer or export of which is prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270.
- (2) However, the Minister is not required to give a direction under subregulation (1) if the Minister is satisfied that the direction would be inconsistent with Australia's obligations under international law.
- (3) The Minister may revoke a direction given under subregulation (1) if the Minister no longer has reasonable grounds to believe the matters mentioned in either of paragraphs (1)(a) and (b).

**11G Prohibition on entering port**

- (1) 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) either:
    - (i) a direction relating to the vessel has been given under regulation 11F; or
    - (ii) the vessel has been designated by the Committee for the purposes of paragraph 12(c) of Resolution 2321, paragraph 6 of Resolution 2371 or paragraph 6 of Resolution 2375; and
  - (d) the vessel enters a port in Australia.
- (2) However, subregulation (1) does not apply if the vessel enters a port:
  - (a) because of an emergency; or
  - (b) to return to its port of origination; or
  - (c) in the case of a vessel in relation to which a direction under regulation 11F has been given—for inspection; or
  - (d) in accordance with a determination in advance by the Committee; or
  - (e) in accordance with a direction by the Committee.

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

**11H Minister's directions to Australian flagged vessels***Vessel designated by Committee*

- (1) If an Australian flagged vessel is designated by the Committee for the purposes of paragraph 12(b) of Resolution 2321, the Minister must direct the vessel to enter a port identified by the Committee.

- (2) However, the Minister is not required to give a direction under subregulation (1) if the Minister is satisfied that the direction would be inconsistent with Australia's obligations under international law.

*Direction for the purposes of inspection*

- (3) The Minister may, for the purposes of cooperating with an inspection in accordance with paragraph 8 of Resolution 2375 and paragraph 18 of Resolution 2270, direct an Australian flagged vessel to enter a port.
- (4) The port identified in a direction under subregulation (3) must be appropriate and convenient having regard to the vessel and its location.

### **11J Failure to enter port as directed**

A person contravenes this regulation if:

- (a) the person owns a vessel (in whole or in part); and
- (b) a direction relating to the vessel has been given under regulation 11H; and
- (c) the vessel does not, within a reasonable period of time after the direction has been given, enter the port that the vessel has been directed to enter.

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

### **11K Minister's directions to aircraft**

- (1) The Minister must direct an aircraft not to take off from, land in or overfly Australia if the Minister has reasonable grounds to believe that the aircraft contains items (*prohibited items*) the supply, sale, transfer or export of which is prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094 or Resolution 2270.
- (2) However, the Minister is not required to give a direction under subregulation (1) if the Minister is satisfied that the direction would be inconsistent with Australia's obligations under international law.
- (3) The Minister may revoke a direction given under subregulation (1) if the Minister no longer has reasonable grounds to believe that the aircraft contains prohibited items.

### **11L Prohibition relating to sanctioned aircraft**

- (1) A person contravenes this regulation if:
  - (a) the person has command or charge of an aircraft; and
  - (b) a direction relating to the aircraft has been given under regulation 11K; and
  - (c) the aircraft takes off from, lands in or overflies Australia.
- (2) However, subregulation (1) does not apply if the aircraft lands in Australia, or overflies Australia for the purposes of landing:
  - (a) because of an emergency; or
  - (b) for an inspection.

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

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**22 At the end of regulation 14**

Add:

- (9) Also, subregulations (2), (5), (6) and (7) do not apply in relation to an application for a permit authorising a financial transaction with the Foreign Trade Bank of the Democratic People's Republic of Korea or the Korea National Insurance Corporation if the transaction is solely for the purposes of:
  - (a) the operation of a diplomatic or consular mission in the Democratic People's Republic of Korea; or
  - (b) the delivery of humanitarian assistance by, or in coordination with, the United Nations.

**23 Subregulations 14B(2) and (3)**

Repeal the subregulations, substitute:

- (2) The Minister may grant a permit if:
  - (a) the sanctioned supply is a supply, sale or transfer of:
    - (i) aviation fuel; or
    - (ii) a new vessel, or a new helicopter, that is not arms or related matériel; or
    - (iii) crude oil; and
  - (b) the Committee has approved the sanctioned supply in advance.
- (3) The Minister may, subject to subregulation (4), grant a permit if:
  - (a) the sanctioned supply is a supply, sale or transfer of a refined petroleum product; and
  - (b) the product is being supplied, sold, or transferred exclusively for the livelihood purposes of nationals of the DPRK; and
  - (c) the supply, sale or transfer does not involve any individual or entity associated with, and is unrelated to generating revenue for, the nuclear or ballistic missile programs of the DPRK or other activities prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094, Resolution 2270, Resolution 2321, Resolution 2356, Resolution 2371 or Resolution 2375.
- (4) However, the Minister must not grant a permit if:
  - (a) during the period between 1 October 2017 and 31 December 2017—the total amount of refined petroleum products supplied, sold or transferred from all countries to the DPRK is more than 500,000 barrels; or
  - (b) in 2018 or a later year—Australia has been notified under paragraph 14 of Resolution 2375 that supply, sale and transfer of refined petroleum products must cease for the remainder of the year.

**24 Regulation 14D**

Repeal the regulation, substitute:

**14D Permit for coal**

- (1) The Minister may grant a person a permit authorising the procurement, receipt or transport of a shipment of coal.

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 Minister is able to confirm, on reasonable grounds, that the coal originated outside the DPRK and was transported through the DPRK solely for export from the Port of Rajin (Rason); and
  - (b) the procurement, receipt or transport was notified to the Committee in advance; and
  - (c) the procurement, receipt or transport is unrelated to generating revenue for the nuclear or ballistic missile programs of the DPRK or for other activities prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094, Resolution 2270, Resolution 2321, Resolution 2356 or Resolution 2371.

## **25 After regulation 14D**

Insert:

### **14DA Permit for statues or textiles**

- (1) The Minister may grant a person a permit authorising the person to procure, receive or transport:
- (a) a specified statue; or
  - (b) a shipment of textiles.

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 approved the procurement, receipt or transport in advance; or
  - (b) in the case of textiles—the contract for the sale, supply or transfer of the textiles was finalised before 11 September 2017 and the import of the textiles will be completed before 11 December 2017.

## **26 Regulation 14HC**

Repeal the regulation.

## **27 Regulation 14J (heading)**

Repeal the heading, substitute:

### **14J Permit to engage in exempted activity**

## **28 At the end of subregulation 14J(2)**

Add “, paragraph 26 of Resolution 2371 or paragraph 26 of Resolution 2375”.