



Charter of the United Nations (Sanctions— Democratic People’s Republic of Korea) Amendment (Shipping) Regulations 2018

I, the Honourable Paul de Jersey AC, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 06 December 2018

Paul de Jersey AC
Administrator of the Government of the Commonwealth of Australia

By His Excellency’s Command

Marise Payne
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 (Shipping) Regulations 2018*.

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.	8 December 2018

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

General Register has the same meaning as in the Shipping Registration Act.

International Register has the same meaning as in the Shipping Registration Act.

Registrar has the same meaning as in the Shipping Registration Act.

Shipping Registration Act means the *Shipping Registration Act 1981*.

2 At the end of Part 1

Add:

8C Minister may specify vessels—involvement in prohibited activities etc.

The Minister may, by notifiable instrument, specify a vessel for the purposes of this regulation if the Minister has reasonable grounds to believe that it was involved in activities, or the transport of items, prohibited by Resolution 1718, Resolution 1874, Resolution 2087, Resolution 2094, Resolution 2270, Resolution 2321, Resolution 2356, Resolution 2371, Resolution 2375 or Resolution 2397.

8D Minister may specify vessels not to be registered

- (1) The Minister may, by notifiable instrument, specify, for the purposes of this regulation, a vessel that is not registered under the Shipping Registration Act if:
 - (a) the Minister has reasonable grounds to believe it is owned, controlled or operated by:
 - (i) a DPRK person or entity; or
 - (ii) a DPRK citizen; or
 - (iii) a person or entity acting on behalf, or at the direction, of a DPRK person or entity or a DPRK citizen; or
 - (iv) an entity owned or controlled by a DPRK person or entity or a DPRK citizen; or
 - (b) it has been de-registered by a foreign country in accordance with the foreign country’s obligations under paragraph 19 of Resolution 2270 or paragraph 24 of Resolution 2321; or
 - (c) it has been de-registered by a foreign country in accordance with the foreign country’s obligations under paragraph 12 of Resolution 2397 and an approval referred to in that paragraph is not in effect in relation to the vessel.

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- (2) However, the Minister must not specify a vessel covered by paragraph (1)(a) if it is covered by that paragraph only because the vessel's captain, master or pilot, or a member of the vessel's crew, is a resident of the DPRK or a DPRK citizen.

8E Minister may specify vessels for cancellation of registration

- (1) The Minister may, by notifiable instrument, specify, for the purposes of this regulation, a vessel that is registered under the Shipping Registration Act if:
- (a) the Minister has reasonable grounds to believe it is owned, controlled or operated by:
 - (i) a DPRK person or entity; or
 - (ii) a DPRK citizen; or
 - (iii) a person or entity acting on behalf, or at the direction, of a DPRK person or entity or a DPRK citizen; or
 - (iv) an entity owned or controlled by a DPRK person or entity or a DPRK citizen; or
 - (b) it is, as a result of being designated by the Committee, subject to the asset freeze imposed by paragraph 8(d) of Resolution 1718; or
 - (c) it is designated by the Committee for the purposes of paragraph 12(a) of Resolution 2321.
- (2) However, the Minister must not specify a vessel covered by paragraph (1)(a) if it is covered by that paragraph only because the vessel's captain, master or pilot, or a member of the vessel's crew, is a resident of the DPRK or a DPRK citizen.

3 After Part 1

Insert:

Part 1A—Sanctions laws—registration of ships

8F Ships specified under regulation 8D not to be registered

- (1) This regulation applies to a ship that is of a kind mentioned in section 14 or 15B of the Shipping Registration Act if it is specified by the Minister for the purposes of regulation 8D.
- (2) If a ship to which this regulation applies is an Australian-owned ship, then, despite section 12 of the Shipping Registration Act, the ship is not required to be registered under that Act.
- (3) If a ship to which this regulation applies is of a kind mentioned in section 14 of the Shipping Registration Act, then, despite that section and section 15E of that Act:
- (a) the ship is not permitted to be registered in the General Register; and
 - (b) if an application under section 15 of that Act is made to register the ship in the General Register, the Registrar must not register the ship in that register.
- (4) If a ship to which this regulation applies is of a kind mentioned in section 15B of the Shipping Registration Act, then, despite that section and section 15F of that Act:

- (a) the ship is not permitted to be registered in the International Register; and
- (b) if an application under section 15C of that Act is made to register the ship in the International Register, the Registrar must not register the ship in that register.

8G Registration of ships specified under regulation 8C or 8E to be cancelled

- (1) This regulation applies to a ship if:
 - (a) both:
 - (i) it is specified by the Minister for the purposes of regulation 8C; and
 - (ii) it is registered under the Shipping Registration Act; or
 - (b) it is specified by the Minister for the purposes of regulation 8E.

Application of section 33C of the Shipping Registration Act

- (2) If a ship to which this regulation applies is registered in the General Register, section 33C (apart from paragraph 33C(1)(b)) of the Shipping Registration Act applies to the registration in the same way that it would apply if the ship were registered in the International Register.

Cancellation of registration

- (3) The Registrar must:
 - (a) cancel the registration of a ship to which this regulation applies; and
 - (b) give written notice of the cancellation, specifying the reason for the cancellation, to each person registered as an owner of the ship in accordance with regulations made under the Shipping Registration Act.
- (4) Section 3A of the Shipping Registration Act applies to a cancellation under subregulation (3) in the same way that it applies to a cancellation under that Act.

Cessation of entitlement to registration and prohibition on registration

- (5) If a ship to which this regulation applies is an Australian-owned ship, then, despite section 12 of the Shipping Registration Act, the ship ceases to be required to be registered under that Act.
- (6) If a ship to which this regulation applies is of a kind mentioned in section 14 of the Shipping Registration Act, then, despite that section and section 15E of that Act:
 - (a) the ship ceases to be permitted to be registered in the General Register; and
 - (b) if (after the ship's registration is cancelled under subregulation (3)) an application under section 15 of that Act is made to register the ship in the General Register, the Registrar must not register the ship in that register.
- (7) If a ship to which this regulation applies is of a kind mentioned in section 15B of the Shipping Registration Act, then, despite that section and section 15F of that Act:
 - (a) the ship ceases to be permitted to be registered in the International Register; and
 - (b) if (after the ship's registration is cancelled under subregulation (3)) an application under section 15C of that Act is made to register the ship in the

International Register, the Registrar must not register the ship in that register.

8H Definition of *Australian ship* in the *Criminal Code* not affected

The definition of *Australian ship* in the Dictionary at the end of the *Criminal Code* is taken to include a ship that, but for regulation 8F or 8G, would be:

- (a) a ship registered, or required to be registered, under the Shipping Registration Act; or
- (b) an unregistered ship that has Australian nationality.

4 After subparagraph 11D(1)(a)(iii)

Insert:

- (iiia) provides a classification service to a vessel specified by the Minister for the purposes of regulation 8C that has had its registration under the Shipping Registration Act cancelled under subregulation 8G(3);

5 Subparagraph 11D(1)(a)(vi)

Omit “Korea; and”, substitute “Korea;”.

6 At the end of paragraph 11D(1)(a)

Add:

- (vii) provides insurance or reinsurance services to a vessel specified by the Minister for the purposes of regulation 8C; and

7 After subparagraph 11D(4)(b)(iii)

Insert:

- (iiia) provides a classification service to a vessel specified by the Minister for the purposes of regulation 8C that has had its registration under the Shipping Registration Act cancelled under subregulation 8G(3);

8 Subparagraph 11D(4)(b)(vi)

Omit “Korea; and”, substitute “Korea;”.

9 At the end of paragraph 11D(4)(b)

Add:

- (vii) provides insurance or reinsurance services to a vessel specified by the Minister for the purposes of regulation 8C; and

10 At the end of subregulation 14H(2)

Add:

- ; and (c) for a permit authorising an action referred to in subparagraph 11D(1)(a)(vii) or (4)(b)(vii)—a determination referred to in paragraph 11 of Resolution 2397 is in effect in relation to the vessel.