



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

Select Legislative Instrument No. 30, 2008 as amended

made under the

Charter of the United Nations Act 1945

Compilation start date: 16 July 2013

Includes amendments up to: SLI No. 173, 2013

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About this compilation

This compilation

This is a compilation of the *Charter of the United Nations (Sanctions—Democratic People's Republic of Korea) Regulations 2008* as in force on 16 July 2013. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 26 August 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name of Regulations

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

2 Commencement

These Regulations commence immediately after the commencement of Schedule 1 to the *International Trade Integrity Act 2007*.

3 Repeal

The *Charter of the United Nations (Sanctions—Democratic People’s Republic of Korea) Regulations 2006* are repealed.

4 Definitions

In these Regulations:

Act means the *Charter of the United Nations Act 1945*.

arms or related matériel includes:

- (a) weapons; and
- (b) ammunition; and
- (c) military vehicles and equipment; and
- (d) spare parts and accessories for the things mentioned in paragraphs (a) to (c); and
- (e) paramilitary equipment.

Australian aircraft has the same meaning as in the *Criminal Code*.

Australian ship has the same meaning as in the *Criminal Code*.

Regulation 4

authorised service means a sanctioned service that is authorised by:

- (a) a permit under regulation 14C; or
- (b) if the service is provided in a foreign country—a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1718 and Resolution 1784.

authorised supply means a sanctioned supply that is authorised by:

- (a) a permit under regulation 14B; or
- (b) if the supply, sale or transfer takes place in or from a foreign country—a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1718 and Resolution 1874.

bunkering service, for a vessel, includes:

- (a) the provision of fuel to the vessel; and
- (b) the provision of supplies to the vessel; and
- (c) other servicing of the vessel.

Committee means the Committee established by paragraph 12 of Resolution 1718.

controlled asset means an asset that is owned or controlled by:

- (a) a designated person or entity; or
- (b) a person or entity acting on behalf of or at the direction of a designated person or entity.

designated person or entity means a person or entity designated by the Committee or by the Security Council for paragraph 8(d) of Resolution 1718.

DPRK means the Democratic People's Republic of Korea.

Regulation 4

DPRK vessel means a vessel registered in the DPRK or owned or controlled by the DPRK.

export sanctioned goods has the meaning given by regulation 5.

goods include items, materials, equipment and technology.

import sanctioned goods has the meaning given by regulation 7.

light weapon means a portable lethal weapon designed for use by several individuals functioning as a crew and includes:

- (a) ammunition for the weapon; and
- (b) components used for the manufacture of ammunition for the weapon; and
- (c) spare and replacement parts for the weapon.

paramilitary equipment means any of the following:

- (a) batons, clubs, riot sticks and similar devices of a kind used for law enforcement purposes;
- (b) body armour, including:
 - (i) bullet-resistant apparel; and
 - (ii) bullet-resistant pads; and
 - (iii) protective helmets;
- (c) handcuffs, leg-irons and other devices used for restraining prisoners;
- (d) riot protection shields;
- (e) whips;
- (f) parts and accessories designed or adapted for use in, or with, equipment mentioned in paragraphs (a) to (e).

Resolution 1718 means Resolution 1718 (2006) of the Security Council, adopted on 14 October 2006.

Resolution 1874 means Resolution 1874 (2009) of the Security Council, adopted on 12 June 2009.

sanctioned service has the meaning given in regulation 8.

sanctioned supply has the meaning given in regulation 6.

Regulation 5

Security Council means the United Nations Security Council.

small arm means a portable lethal weapon for use by 1 individual and includes:

- (a) ammunition for the weapon; and
- (b) components used for the manufacture of ammunition for the weapon; and
- (c) spare and replacement parts for the weapon.

Note: In these Regulations:

- (a) the **Department** is the Department of Foreign Affairs and Trade; and
- (b) the **Minister** is the Minister for Foreign Affairs; and
- (c) **asset** has the meaning given in section 2 of the Act.

5 Export sanctioned goods

- (1) For these Regulations, the following, whether or not they originate in Australia, are **export sanctioned goods**:
 - (a) arms or related matériel;
 - (b) goods mentioned in the luxury goods list;
 - (c) goods mentioned in the following Security Council and International Atomic Energy Agency documents:
 - (i) S/2006/814;
 - (ii) S/2006/815;
 - (iii) S/2006/853;
 - (iv) INFCIRC/254/Rev.9/Part 1a;
 - (v) INFCIRC/254/Rev.7/Part 2a.
 - (d) goods that have been determined by the Security Council or the Committee for subparagraphs (8)(a)(i) and (ii) of Resolution 1718.
- (2) The Minister may, by legislative instrument, determine a luxury goods list for paragraph (1)(b).

6 Sanctioned supply

- (1) A person makes a **sanctioned supply** if:

Regulation 7

- (a) the person supplies, sells or transfers goods to another person; and
 - (b) the goods are export sanctioned goods; and
 - (c) as a direct or indirect result of the supply, sale or transfer the goods are transferred to the Democratic People's Republic of Korea, or are incorporated into goods that are transferred to the Democratic People's Republic of Korea.
- (2) A person also makes a **sanctioned supply** if the person transfers any financial or other assets or resources, including bulk cash, that could contribute to:
- (a) the nuclear or ballistic missile programs of the Democratic People's Republic of Korea; or
 - (b) another activity that is an offence under these regulations.

7 Import sanctioned goods

For these Regulations, the following, whether or not they originate in the Democratic People's Republic of Korea, are **import sanctioned goods**:

- (a) arms or related matériel;
- (b) goods mentioned in the following Security Council and International Atomic Energy Agency documents:
 - (i) S/2006/814;
 - (ii) S/2006/815;
 - (iii) S/2006/853;
 - (iv) INFCIRC/254/Rev.9/Part 1a;
 - (v) INFCIRC/254/Rev.7/Part 2a.
- (c) goods that have been determined by the Security Council or the Committee for subparagraphs (8)(a)(i) and (ii) of Resolution 1718.

8 Sanctioned service

- (1) For these Regulations, each of the following is a provision of a **sanctioned service**:

Regulation 8

- (a) the provision to any person of technical training, advice, services or assistance, if it assists with, or is provided in relation to, a supply of the goods mentioned in paragraphs 5(1)(a), (c) and (d);
 - (b) the provision to any person of technical training, advice, services or assistance, if it assists with the manufacture, maintenance or use of the goods mentioned in paragraphs 5(1)(a), (c) and (d);
 - (c) the transportation of goods:
 - (i) that are the subject of a sanctioned supply; or
 - (ii) that are import sanctioned goods in the course of being procured from the Democratic People's Republic of Korea or from a person or entity in the Democratic People's Republic of Korea;
 - (d) a financial transaction related to the supply, manufacture, maintenance or use of arms or related matériel (other than small arms or light weapons);
 - (e) brokering or other intermediary services, including when arranging for the provision, maintenance or use of export sanctioned goods;
 - (f) the provision of financial services that could contribute to:
 - (i) the nuclear or ballistic missile programs of the Democratic People's Republic of Korea; or
 - (ii) another activity that is an offence under these regulations.
- (2) In this regulation:

brokering services means:

- (a) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, including from a third country to any other third country; or
- (b) the selling or buying of goods and technology or of financial and technical services, including where they are located in third countries for their transfer to another third country.

financial services includes the following:

- (a) the acceptance of deposits and other repayable funds from the public;
- (b) the lending of money;
- (c) financial leasing, other than the financial leasing of a consumer product;
- (d) the transfer of money or value, other than the provision of message or other support for the purpose of transmitting money;
- (e) the giving of financial guarantees and commitments;
- (f) trading in money market instruments;
- (g) trading foreign exchange;
- (h) trading in exchange instruments;
- (i) trading in interest rate instruments;
- (j) trading in interest index instruments;
- (k) trading in transferable securities;
- (l) trading in commodity futures;
- (m) participation in the issue of securities and the provision of financial services in relation to the issue of securities;
- (n) the management of individual or collective portfolios;
- (o) the safekeeping and administration of cash or liquid securities;
- (p) the investment, administration or management of funds or money;
- (q) the underwriting and placement of life insurance and other insurance that is related to investments;
- (r) money changing and other currency changing;
- (s) the issue and management of means of payment.

Note: Examples of means of payment for paragraph (s) are:

- (a) credit and debit cards; or
- (b) cheques; or
- (c) travellers' cheques; or
- (d) money orders; or
- (e) bankers' drafts; or
- (f) electronic money.

Regulation 8

insurance means an undertaking or commitment under which a person is obliged, in return for a payment, to provide a person, in the event of materialisation of a risk, with an indemnity or a benefit as determined by the undertaking or commitment.

Part 2—UN sanction enforcement laws

9 Prohibitions relating to a sanctioned supply

- (2) A person contravenes this regulation if:
- (a) the person makes a sanctioned supply; and
 - (b) the sanctioned supply is not an authorised supply.
- (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 (2).

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

- (4) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if:
- (a) the person uses the services of an Australian ship or an Australian aircraft to transport or export sanctioned goods in the course of, or for the purpose of, making a sanctioned supply; and
 - (b) the sanctioned supply is not an authorised supply.
- (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 makes a sanctioned supply; and
 - (c) the sanctioned supply is not an authorised supply.

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*.

10 Prohibitions relating to import sanctioned goods

- (2) A person contravenes this regulation if the person procures import sanctioned goods from the Democratic People's Republic of Korea
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Regulation 11

or from a person or entity in the Democratic People's Republic of Korea.

- (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 (2).

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

- (4) A person, whether or not in Australia, and whether or not an Australian citizen, contravenes this regulation if 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 the goods from the Democratic People's Republic of Korea or from a person or entity in the Democratic People's Republic of Korea.

- (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 procures import sanctioned goods from the Democratic People's Republic of Korea or a person or entity in 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*.

11 Prohibitions relating to sanctioned services

- (2) A person contravenes this regulation if:
- (a) the person provides a sanctioned service; and
 - (b) the sanctioned service is not an authorised service; and
 - (c) the sanctioned service is not provided in relation to an authorised supply.
- (3) A person contravenes this regulation if the person procures a sanctioned service from:

Regulation 11A

- (a) the Democratic People's Republic of Korea; or
 - (b) a person in the Democratic People's Republic of Korea; or
 - (c) a national of the Democratic People's Republic of Korea.
- (4) Section 15.1 of the *Criminal Code* applies to an offence under section 27 of the Act that relates to a contravention of subregulation (2) or (3).
- Note: This has the effect that the offence has extraterritorial operation.
- (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 provides a sanctioned service or procures a sanctioned service from:
 - (i) the Democratic People's Republic of Korea; or
 - (ii) a person in the Democratic People's Republic of Korea; or
 - (iii) a national of the Democratic People's Republic of Korea; and
 - (c) the sanctioned service is not an authorised service; and
 - (d) the sanctioned service is not provided in relation to an authorised supply.

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*.

11A Prohibition relating to bunkering service

- (1) A person contravenes this regulation if the person provides a bunkering service to a DPRK vessel and the provision of the bunkering service is not authorised in accordance with subregulation (3).
- (2) A body corporate contravenes this regulation if:

Regulation 12

- (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 provides a bunkering service to a DPRK vessel and the provision of the bunkering service is not authorised in accordance with subregulation (3)
- (3) The provision of a bunkering service to a DPRK vessel is authorised:
- (a) by a permit under regulation 14A; or
 - (b) if the bunkering service is provided in a foreign country—by a permit:
 - (i) granted by the foreign country; and
 - (ii) properly granted by the foreign country; and
 - (iii) granted in a way that accords with the foreign country's obligations under Resolution 1718 and Resolution 1874.

12 Prohibition relating to dealings with designated person or entity

- (2) A person contravenes this regulation if:
- (a) the person directly or indirectly makes an asset available to, or for the benefit of:
 - (i) a designated person or entity; or
 - (ii) a person or entity acting on behalf of or at the direction of a designated person or entity; or
 - (iii) an entity that is owned or controlled, including through illicit means, by a person or entity acting on behalf of or at the direction of a designated person or entity; and
 - (b) the making available of the asset is not authorised by a permit under regulation 14.
- (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 (2).

Note 1: Subregulation (3) has the effect that the offence has extraterritorial application.

Regulation 13

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*.

13 Prohibition relating to controlled assets

- (2) A person contravenes this regulation if:
- (a) the person holds a controlled asset; and
 - (b) the person:
 - (i) uses or deal with the asset; or
 - (ii) allows the asset to be used or dealt with; or
 - (iii) facilitates the use of the asset or dealing with the asset; and
 - (c) the use or dealing is not authorised by a permit under regulation 14.
- (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 (2).

Note 1: Subregulation (3) has the effect that the offence has extraterritorial application.

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*.

14 Permit for assets and controlled assets

- (1) The Minister may, on application, grant a person a permit authorising:
- (a) the making available of an asset to a person or entity that would otherwise contravene subregulation 12(2); or
 - (b) a use of, or dealing with, a controlled asset.
- Note: Section 13A of the Act applies to a permit granted by the Minister under this subregulation.
- (2) A permit is subject to any conditions specified in the permit.

Regulation 14A

- (3) An application must be for a basic expense dealing, a legally required dealing or an extraordinary expense dealing mentioned in regulation 5 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008*.
- (4) An application must specify which kind of dealing mentioned in subregulation (3) the application is for.
- (5) If the application is for a basic expense dealing, the Minister:
 - (a) must notify the Committee of the application; and
 - (b) may grant a permit only if 5 working days have passed since the notice was given, and the Committee has not advised against granting a permit to the applicant.
- (6) If the application is for a legally required dealing, the Minister must notify the Committee of the application before granting a permit.
- (7) If the application is for an extraordinary expense dealing, the Minister:
 - (a) must notify the Committee of the application; and
 - (b) may grant a permit only with the approval of the Committee.

Note: Part 2 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008* applies to these Regulations.

14A Permit to provide a bunkering service

- (1) The Minister may, on application, 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 subregulation.
- (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:
 - (a) the supply of the service is for humanitarian purposes; or
 - (b) the export sanctioned goods have been inspected, seized and disposed of in accordance with paragraph 17 of Resolution 1874.

Regulation 14B

- (3) A permit is subject to any conditions specified in the permit.

14B Permit to make a sanctioned supply

- (1) The Minister may, on application, 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 subregulation.

- (2) The Minister may grant a permit only if the sanctioned supply is a supply, sale or transfer of small arms or light weapons.
- (3) The Minister must not grant a permit for the purposes of subregulation (2) unless:
- (a) the Minister has notified the Committee of the application; and
 - (b) 5 working days have passed since the notification was given and the Committee has not advised against granting the permit to the applicant.
- (4) A permit is subject to any conditions specified in the permit.

14C Permit to provide a sanctioned service

- (1) The Minister may, on application, grant a person a permit authorising the provision of a sanctioned service if the service is in relation to a sanctioned supply of small arms or light weapons.

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

- (2) The Minister must not grant the permit unless the sanctioned supply to which the sanctioned service relates is an authorised supply.
- (3) A permit is subject to any conditions specified in the permit.

Part 3—Miscellaneous

15 Delegations by Minister

- (1) The Minister may delegate the Minister's powers and functions under these Regulations (other than this power of delegation) to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.
- (2) The delegation must be in writing.
- (3) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.

16 Transitional

The Charter of the United Nations (Sanctions – Democratic People's Republic of Korea) Luxury Goods List 2006 is maintained in existence and is taken to have been made under subregulation 5(2).

Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Endnotes

Endnote 1—About the endnotes

Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law, but the text of the amendments is included in endnote 5.

Modifications—Endnote 6

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

Endnote 2—Abbreviation key

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Number and year	FRLI registration	Commencement	Application, saving and transitional provisions
2008 No 30	20 Mar 2008 (<i>see</i> F2008L00925)	(<i>a</i>)	
2008 No 42	11 Apr 2008 (<i>see</i> F2008L01051)	12 Apr 2008	—
2009 No 182	10 July 2009 (<i>see</i> F2009L02712)	11 July 2009	—
2009 No 193	30 July 2009 (<i>see</i> F2009L02941)	31 July 2009	—
173, 2013	15 July 2013 (<i>see</i> F2013L01384)	16 July 2013	—

- (*a*) Regulation 2 of SLI 2008 No. 30 provides as follows:
These Regulations commence immediately after the commencement of Schedule 1 to the *International Trade Integrity Act 2007*.
The *International Trade Integrity Act 2007* commenced on 24 March 2008.

Endnote 4—Amendment history

Provision affected	How affected
Pt 1	
s 4	am 2009 No 182
s 5	am 2009 No 182
r 6	am No 173, 2013
s 7	am 2009 No 182
s 8	am 2009 No 182; No 173, 2013
Pt 2	
s 9	am 2008 No 42; 2009 Nos 182 and 193
Note to s 9(5)	ad 2008 No 42
s 10	am 2008 No 42
Note to s 10(5)	ad 2008 No 42
s 11	am 2008 No 42; 2009 No 182
Note to s 11(5)	ad 2008 No 42
s 11A	ad 2009 No 182
s 12	am 2008 No 42; No 173, 2013
Note to s 12(3)	rep 2008 No 42
Note 1 to s 12(3)	ad 2008 No 42
Note 2 to s 12(3)	ad 2008 No 42
s 13	am 2008 No 42
Note to s 13(3)	rep 2008 No 42
Note 1 to s 13(3)	ad 2008 No 42
Note 2 to s 13(3)	ad 2008 No 42
s 14A	ad 2009 No 182
s 14B	ad 2009 No 182
s 14C	ad 2009 No 182

Endnotes

Endnote 5—Uncommenced amendments [none]

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]