

## **Explanatory Statement**

Issued by the Authority of the Minister for Foreign Affairs

### *Charter of the United Nations Act 1945*

#### *Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2009 (No.3)*

The purpose of *Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2009 (No. 3)* (Amendment Declaration) is to make a consequential amendment to the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008* to reflect an amendment made to the *Charter of the United Nations (Sanctions – Democratic People's Republic of Korea) Regulations 2008* (DPRK Regulations). The amendments to the DPRK Regulations reflects the international obligations United Nations Security Council Resolution 1874 (12 June 2009) imposes on Australia by, among other things, adding Regulation 11A to the DPRK Regulations.

Regulations 11A prohibits the unauthorised provision of bunkering services to a Democratic People's Republic of Korea vessel. Sub-section 2B of the *Charter of the United Nations Act 1945* (Act) provides that the Minister for Foreign Affairs may, by legislative instrument, specify a provision of a law of the Commonwealth to be a UN sanction enforcement law to the extent that the provision gives effect to a decision of the United Nations Security Council under Chapter VII of the Charter of the United Nations (Charter) which Article 25 of the Charter requires Australia to carry out in so far as that decision requires Australia to carry out measures not involving the use of force. The offences provided for in sections 27 and 28 of the Act apply in respect of UN sanction enforcement laws.

By item 1 of Schedule 1 of this instrument the Minister declared regulations 11A of the Amendment Regulations to be UN sanction enforcement laws pursuant to sub-section 2B of the Act.

Interdepartmental and industry consultation has not been undertaken in the preparation of this Amendment Declaration as it made in furtherance of Australia's international obligation implemented by amendments to the DPRK Regulations which implement Australia's international obligations under article 25 of the Charter of the United Nations and therefore public consultation can not alter the obligations.

Details of the Legislative Instrument are set out in the Annex.

Paragraph 1 of the Amendment Declaration provides that the name of the Amendment Declaration is the *Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2009 (No. 3)*

Paragraph 2 provides that the Amendment Declaration shall commence on the day after it is registered.

Paragraph 3 provides that Schedule 1 of the Amendment Declaration amends the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008*.

Schedule 1, item 1 provides that Schedule 1 of the *Charter of the United Nations (UN Sanction Enforcement Law) Declaration 2008* is amended to substitute at item 3 regulations 9, 10, 11, 11A, 12, 13, 14A, 14B and 14C of the *Charter of the United Nations (Sanctions – Democratic People's Republic of Korea) Regulations 2008* in place of regulation 9, 10, 11, 12 and 13.