

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Foreign Affairs

Charter of the United Nations Act 1945

*Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea)
(Luxury Goods) Instrument 2017*

Section 6 of the *Charter of the United Nations Act 1945* (the Act) provides that the Governor-General may make regulations to give effect to decisions of the United Nations Security Council (UNSC) under Chapter VII of the Charter of the United Nations (the Charter) that Australia is required to carry out under Article 25 of the Charter and in so far as those decisions require Australia to apply measures not involving the use of armed force. Section 6(2)(g) of the Act also allows the regulations to authorise the making of legislative instruments.

A preamble to United Nations Security Council Resolution 1718 (2006) notes that the Security Council was acting under Chapter VII of the Charter of the United Nations.

Paragraph 8(a)(iii) of United Nations Security Council Security Council Resolution 1718 (2006) requires that Member States prevent the export to the DPRK of “luxury goods”.

Paragraph 5(1)(b) of the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Regulations 2008* defines “export sanctioned goods” to include goods mentioned in the luxury goods list determined by the Minister for Foreign Affairs under subregulation 5(2) of the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Regulations 2008*.

Subregulation 5(2) of the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Regulations 2008* provides that the Minister for Foreign Affairs may, by legislative instrument, determine a luxury goods list for paragraph 5(1)(b) of the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Regulations 2008*.

The *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) (Luxury Goods) Instrument 2017* (**the DPRK Instrument**) is made under subregulation 5(2) of the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Regulations 2008*.

The DPRK Instrument repeals the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Luxury Goods List 2006*. It contains the same list of goods as the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Luxury Goods List 2006* and adds the following goods that the United Nations Security Council has determined should be included as “luxury goods”:

- Aquatic recreational vehicles (such as personal watercraft)
- Sapphires, rubies and emeralds;
- Items of lead crystal;
- Gems;
- Racing cars;
- Snowmobiles (valued at greater than US\$2000);
- Tableware of porcelain or bone china (valued at greater than US\$100); and
- Rugs and tapestries (valued at greater than US\$500).

Australia is under an international legal obligation to implement the decisions of the United Nations Security Council. The DPRK Instrument will facilitate the implementation of this international legal obligation.

No public consultation was undertaken in relation to the DPRK Instrument, as it implements Australia’s international legal obligations arising from decisions of the United Nations Security Council. The Department of Foreign Affairs and Trade conducts regular outreach to the Australian business community to explain Australian sanctions laws implementing UN sanctions.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) (Luxury Goods) Instrument 2017

The *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) (Luxury Goods) Instrument 2017* (**the DPRK Instrument**) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The DPRK Instrument contains a list of luxury goods, as determined by the Minister pursuant to the *Charter of the United Nations (Sanctions – Democratic People’s Republic of Korea) Regulations 2008*, that are prohibited from being exported to the DPRK.

The DPRK Instrument thus only acts to restricts the export of certain goods to the DPRK and is therefore compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.