



## United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2017

Patsy Reddy, Governor-General

### Order in Council

At Wellington this 18th day of April 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 2 of the United Nations Act 1946—

- (a) on the advice and with the consent of the Executive Council:
- (b) for the purpose of giving effect to the following resolutions of the Security Council of the United Nations adopted under the United Nations Charter:
  - (i) resolution 1718 (2006) adopted on 14 October 2006:
  - (ii) resolution 1874 (2009) adopted on 12 June 2009:
  - (iii) resolution 2087 (2013) adopted on 22 January 2013:
  - (iv) resolution 2094 (2013) adopted on 7 March 2013:
  - (v) resolution 2270 (2016) adopted on 2 March 2016:
  - (vi) resolution 2321 (2016) adopted on 30 November 2016.

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## Regulations

### 1 Title

These regulations are the United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2017.

## 2 Commencement

These regulations come into force on 18 May 2017.

## 3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

**arms** includes—

- (a) related materiel of all types (for example, weapons and ammunition); and
- (b) spare parts for any arms, or for any materiel specified in paragraph (a); and
- (c) specified military equipment; and
- (d) the items and other things listed in Annex III of resolution 2321 (2016); and
- (e) WMD-related and ballistic missile-related goods

**bunkering service**, in relation to 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

**charterer**, in relation to a craft, includes a person acting as the agent of the charterer of the craft

**classified information** has the meaning given in section 7 of the Immigration Act 2009

**Committee** means the Committee established by paragraph 12 of resolution 1718 (2006)

**craft** has the same meaning as in section 2(1) of the Customs and Excise Act 1996

**Customs** means the New Zealand Customs Service

**designated person** means—

- (a) an individual designated by or under—
  - (i) paragraph 8(e) of resolution 1718 (2006);
  - (ii) Annex I of resolution 2087 (2013);
  - (iii) Annex I of resolution 2094 (2013);
  - (iv) Annex I of resolution 2270 (2016);
  - (v) Annex I of resolution 2321 (2016);
- (b) an entity designated by or under—
  - (i) paragraph 8(d) of resolution 1718 (2006);
  - (ii) Annex II of resolution 2087 (2013);

- (iii) Annex II of resolution 2094 (2013):
- (iv) Annex II of resolution 2270 (2016):
- (v) Annex II of resolution 2321 (2016):
- (c) an individual or entity that the Secretary determines is—
  - (i) acting on behalf, or at the direction, of another designated person:
  - (ii) assisting the evasion of measures contained in the resolutions:
  - (iii) violating the provisions of the resolutions

**DPRK** means the Democratic People's Republic of Korea

**DPRK ship** means a ship registered in DPRK or owned or controlled by DPRK

**financial service** has the meaning given in section 5(1) of the Financial Service Providers (Registration and Dispute Resolution) Act 2008

**financial service provider** has the meaning given in section 4 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008

**immigration officer** has the meaning given in section 4 of the Immigration Act 2009

**iron** includes iron ore

**luxury goods** means an item listed in any of the following:

- (a) the Schedule:
- (b) Annex IV of resolution 2094 (2013):
- (c) Annex IV of resolution 2270 (2016):
- (d) Annex IV of resolution 2321 (2016)

**Minister** means the Minister of Foreign Affairs

**New Zealand** includes Tokelau

**New Zealand chartered craft** means a craft that is not a New Zealand registered craft but is chartered to a New Zealand citizen or an entity incorporated or constituted under the law of New Zealand

**New Zealand craft** means a New Zealand registered craft or a New Zealand chartered craft

**New Zealand registered craft**—

- (a) means a craft registered in New Zealand; and
- (b) includes, whether or not it is actually registered,—
  - (i) an aircraft required to be registered in New Zealand under the Civil Aviation Act 1990; and
  - (ii) a ship required or entitled to be registered in New Zealand under the Ship Registration Act 1992

**owner**, in relation to a craft, includes a person acting as the agent of the owner

**precious metals** means—

- (a) copper:
- (b) gold:
- (c) nickel:
- (d) rare earth metals:
- (e) silver:
- (f) titanium ore:
- (g) vanadium ore:
- (h) zinc

**property**—

- (a) means everything that is capable of being owned, whether it is—
  - (i) real or personal property:
  - (ii) tangible or intangible property:
  - (iii) inside or outside New Zealand; and
- (b) includes a legal or an equitable estate or interest in property

**resolution 1718 (2006)** means resolution 1718 of the Security Council, adopted on 14 October 2006

**resolution 1874 (2009)** means resolution 1874 of the Security Council, adopted on 12 June 2009

**resolution 2087 (2013)** means resolution 2087 of the Security Council, adopted on 22 January 2013

**resolution 2094 (2013)** means resolution 2094 of the Security Council, adopted on 7 March 2013

**resolution 2270 (2016)** means resolution 2270 of the Security Council, adopted on 2 March 2016

**resolution 2321 (2016)** means resolution 2321 of the Security Council, adopted on 30 November 2016

**resolutions** means resolution 1718 (2006), resolution 1874 (2009), resolution 2087 (2013), resolution 2094 (2013), resolution 2270 (2016), and resolution 2321 (2016)

**Secretary** means the Secretary of Foreign Affairs and Trade

**ship** has the meaning given in section 2(1) of the Ship Registration Act 1992

**specified military equipment**—

- (a) means battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, or missiles or missile systems (as defined for the purpose in the United Nations Register of Conventional Arms); and

- (b) includes—
  - (i) any related materiel; and
  - (ii) components and spare parts for any specified military equipment or for any materiel referred to in subparagraph (i); and
- (c) includes any item (except food, medicine, or any item notified to or approved by the Committee in accordance with paragraph 8(a) or (b) of resolution 2270 (2016)) that is determined by the Secretary as being capable of contributing to the development of the operational capabilities of DPRK's armed forces; and
- (d) includes any item determined by the Committee as being capable of military use (whether or not the item also has some other non-military use)

**specified person** has the meaning given in regulation 48

**United Nations Register of Conventional Arms** means the United Nations Register of Conventional Arms established on 1 January 1992 under United Nations General Assembly resolution A/RES/46/36 L of 6 December 1991

**WMD** means weapons of mass destruction

**WMD-related and ballistic missile-related goods** means items, materials, goods, or technology—

- (a) described in—
    - (i) INFCIRC/254/Rev.9/Part 1a:
    - (ii) INFCIRC/254/Rev.7/Part 2a:
    - (iii) INFCIRC/254/Rev.11/Part 1:
    - (iv) INFCIRC/254/Rev.8/Part 2:
    - (v) S/2012/947:
    - (vi) Annex III of resolution 2094 (2013); or
  - (b) determined by the Secretary as being capable of contributing to DPRK's nuclear or ballistic missile programmes or other WMD programmes.
- (2) The Secretary must publish a notice, in the *Gazette* and on the Internet site of the Ministry of Foreign Affairs and Trade, of any determination made under—
- (a) paragraph (c) of the definition of designated person in subclause (1):
  - (b) paragraph (c) or (d) of the definition of specified military equipment in subclause (1):
  - (c) paragraph (b) of the definition of WMD-related and ballistic missile-related goods in subclause (1):
  - (d) the definition of training in regulation 10(2):
  - (e) regulation 41(1)(d):
  - (f) regulation 44(1)(a)(iii):

- (g) regulation 47(1)(c).

### *Arms*

#### **4 Arms: exportation and importation prohibited**

- (1) A person must not—
  - (a) export, directly or indirectly, arms from New Zealand knowing that the arms are intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK; or
  - (b) import, directly or indirectly, arms into New Zealand knowing that the arms are from DPRK (whether or not the arms originated in DPRK).
- (2) However, subclause (1) and regulations 5 to 10 do not apply to an importation, exportation, or activity that is—
  - (a) undertaken for the purposes described in paragraph 8(a) of resolution 2270 (2016) and approved in advance by the Minister; or
  - (b) approved in advance by the Committee.

#### **5 Arms: loading onto craft prohibited**

The master or pilot of a craft must not allow arms to be loaded or taken onto the craft knowing that the arms are intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK.

#### **6 Arms: carrying on New Zealand craft prohibited**

- (1) A person must not use a New Zealand craft to carry arms knowing that—
  - (a) the craft is carrying the arms; and
  - (b) the carriage is, or forms part of, the carriage of those arms—
    - (i) from any place to DPRK; or
    - (ii) to any place from DPRK.
- (2) Subclause (1) applies to,—
  - (a) in the case of a New Zealand registered craft,—
    - (i) the owner of the craft; and
    - (ii) the master or pilot in command of the craft:
  - (b) in the case of a New Zealand chartered craft,—
    - (i) the charterer of the craft; and
    - (ii) the master or pilot in command of the craft, if the master or pilot is a New Zealand citizen.

#### **7 Arms: Customs may refuse certificate of clearance**

The Customs may refuse to grant a certificate of clearance for a craft that a Customs officer has reasonable cause to suspect is loaded with arms that are



intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK.

## **8 Arms: application of Customs and Excise Act 1996**

The provisions of the Customs and Excise Act 1996 (except section 209) apply in relation to arms that are—

- (a) imported to New Zealand from DPRK as if the arms were goods the importation of which is prohibited under section 54(1) of that Act;
- (b) intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK, as if the arms were goods the exportation of which is prohibited under section 56(1) of that Act.

## **9 Arms: dealing prohibited**

- (1) A person must not sell, transfer, or otherwise deal with any arms knowing that the arms are intended to be supplied, sold, or transferred, directly or indirectly,—
  - (a) to DPRK, or are for use in, or for the benefit of, DPRK; or
  - (b) to any place from DPRK.
- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

## **10 Arms: assistance and training prohibited**

- (1) A person must not knowingly provide any assistance or training to, or at the request of, any person in DPRK relating to the supply, sale, transfer, manufacture, or use of arms.
- (2) A person must not knowingly procure any assistance or training from any person in DPRK relating to the supply, sale, transfer, manufacture, or use of arms.
- (3) In this regulation,—

**assistance** includes technical assistance, any kind of financial assistance, and advice and assistance relating to the repair, servicing, or refurbishment of arms

**training** includes training in any discipline that the Secretary determines could contribute to DPRK's proliferation of sensitive nuclear activities or the development of nuclear weapon delivery.
- (4) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

### *Luxury goods*

## **11 Luxury goods: exportation prohibited**

- (1) A person must not export, directly or indirectly, luxury goods from New Zealand knowing that the goods are intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK.

- (2) However, subclause (1) and regulations 12 to 16 do not apply in relation to the exportation of a new helicopter or a new ship if the exportation has been approved in advance by the Committee.

**12 Luxury goods: loading onto craft prohibited**

The master or pilot of a craft must not allow luxury goods to be loaded or taken onto the craft knowing that the goods are luxury goods and knowing that the goods are intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK.

**13 Luxury goods: carrying on New Zealand craft prohibited**

- (1) A person must not use a New Zealand craft to carry luxury goods knowing that—
- (a) the craft is carrying luxury goods; and
  - (b) the carriage is, or forms part of, the carriage of those goods from any place to DPRK.
- (2) Subclause (1) applies to,—
- (a) in the case of a New Zealand registered craft,—
    - (i) the owner of the craft; and
    - (ii) the master or pilot in command of the craft;
  - (b) in the case of a New Zealand chartered craft,—
    - (i) the charterer of the craft; and
    - (ii) the master or pilot in command of the craft, if the master or pilot is a New Zealand citizen.

**14 Luxury goods: Customs may refuse certificate of clearance**

The Customs may refuse to grant a certificate of clearance for a craft that a Customs officer has reasonable cause to suspect is loaded with luxury goods that are intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK.

**15 Luxury goods: application of Customs and Excise Act 1996**

The provisions of the Customs and Excise Act 1996 (except section 209) apply in relation to luxury goods that are to be intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK, as if the goods were goods the exportation of which is prohibited under section 56(1) of that Act.

**16 Luxury goods: dealing prohibited**

- (1) A person must not sell, transfer, or otherwise deal with, any luxury goods knowing that the goods are intended to be supplied, sold, or transferred, directly or indirectly, to DPRK, or are for use in, or for the benefit of, DPRK.

- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

*Precious metals*

**17 Precious metals: importation prohibited**

A person must not import, directly or indirectly, precious metals into New Zealand knowing that the precious metals are from DPRK (whether or not the precious metals originated in DPRK).

**18 Precious metals: carrying on New Zealand craft prohibited**

- (1) A person must not use a New Zealand craft to carry precious metals knowing that—
- (a) the craft is carrying precious metals; and
  - (b) the carriage is, or forms part of, the carriage of those precious metals to any place from DPRK.
- (2) Subclause (1) applies to,—
- (a) in the case of a New Zealand registered craft,—
    - (i) the owner of the craft; and
    - (ii) the master or pilot in command of the craft;
  - (b) in the case of a New Zealand chartered craft,—
    - (i) the charterer of the craft; and
    - (ii) the master or pilot in command of the craft, if the master or pilot is a New Zealand citizen.

**19 Precious metals: application of Customs and Excise Act 1996**

The provisions of the Customs and Excise Act 1996 (except section 209) apply in relation to precious metals that are imported to New Zealand from DPRK as if the precious metals were goods the importation of which is prohibited under section 54(1) of that Act.

**20 Precious metals: dealing prohibited**

- (1) A person must not sell, transfer, or otherwise deal with any precious metals knowing that the precious metals are intended to be supplied, sold, or transferred, directly or indirectly, to any place from DPRK.
- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

*Statues***21 Statues: importation prohibited**

A person must not import, directly or indirectly, a statue into New Zealand knowing that the statue is from DPRK (whether or not the statue originated in DPRK).

**22 Statues: carrying on New Zealand craft prohibited**

- (1) A person must not use a New Zealand craft to carry a statue knowing that—
  - (a) the craft is carrying a statue; and
  - (b) the carriage is, or forms part of, the carriage of that statue to any place from DPRK.
- (2) Subclause (1) applies to,—
  - (a) in the case of a New Zealand registered craft,—
    - (i) the owner of the craft; and
    - (ii) the master or pilot in command of the craft:
  - (b) in the case of a New Zealand chartered craft,—
    - (i) the charterer of the craft; and
    - (ii) the master or pilot in command of the craft, if the master or pilot is a New Zealand citizen.

**23 Statues: application of Customs and Excise Act 1996**

The provisions of the Customs and Excise Act 1996 (except section 209) apply in relation to a statue that is imported to New Zealand from DPRK as if the statue were goods the importation of which is prohibited under section 54(1) of that Act.

**24 Statues: dealing prohibited**

- (1) A person must not sell, transfer, or otherwise deal with a statue knowing that the statue is intended to be supplied, sold, or transferred, directly or indirectly, to any place from DPRK.
- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

*Coal and iron***25 Coal and iron: importation prohibited**

- (1) A person must not import, directly or indirectly, coal or iron into New Zealand knowing that the coal or iron is from DPRK (whether or not the coal or iron originated in DPRK).
- (2) However, subclause (1) and regulations 26 to 28 do not apply to—

- (a) an importation or any other activity that—
  - (i) relates to coal that is described in paragraph 29(a) and (b) of resolution 2270 (2016) (as replaced by paragraph 26 of resolution 2321 (2016)); and
  - (ii) is approved in advance by the Minister; or
- (b) a transaction that—
  - (i) is described in paragraph 29(c) of resolution 2270 (2016) (as replaced by paragraph 26 of resolution 2321 (2016)); and
  - (ii) is approved in advance by the Minister.

## **26 Coal and iron: carrying on New Zealand craft prohibited**

- (1) A person must not use a New Zealand craft to carry coal or iron knowing that—
  - (a) the craft is carrying coal or iron; and
  - (b) the carriage is, or forms part of, the carriage of that coal or iron to any place from DPRK.
- (2) Subclause (1) applies to,—
  - (a) in the case of a New Zealand registered craft,—
    - (i) the owner of the craft; and
    - (ii) the master or pilot in command of the craft:
  - (b) in the case of a New Zealand chartered craft,—
    - (i) the charterer of the craft; and
    - (ii) the master or pilot in command of the craft, if the master or pilot is a New Zealand citizen.

## **27 Coal and iron: application of Customs and Excise Act 1996**

The provisions of the Customs and Excise Act 1996 (except section 209) apply in relation to coal or iron that is imported to New Zealand from DPRK as if the coal or iron were goods the importation of which is prohibited under section 54(1) of that Act.

## **28 Coal and iron: dealing prohibited**

- (1) A person must not sell, transfer, or otherwise deal with any coal or iron knowing that the coal or iron is intended to be supplied, sold, or transferred, directly or indirectly, to any place from DPRK.
- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

*Aviation fuel***29 Aviation fuel: exportation prohibited**

- (1) A person must not knowingly export, directly or indirectly, aviation fuel from New Zealand knowing that the aviation fuel is intended to be exported to DPRK, or is intended for use in, or for the benefit of, DPRK.
- (2) However, subclause (1) and regulations 30 to 34 do not apply—
  - (a) if the exportation has been approved in advance by the Committee; or
  - (b) to aviation fuel that is sold or supplied outside DPRK for use—
    - (i) by a civilian passenger aircraft; and
    - (ii) during the aircraft's flight to or from DPRK.

**30 Aviation fuel: loading onto craft prohibited**

The master or pilot of a craft must not allow aviation fuel to be loaded onto the craft knowing that the aviation fuel is intended to be exported to DPRK, or is intended for use in, or for the benefit of, DPRK.

**31 Aviation fuel: carrying on New Zealand craft prohibited**

- (1) A person must not use a New Zealand craft to carry aviation fuel knowing that—
  - (a) the craft is carrying aviation fuel; and
  - (b) the carriage is, or forms part of, the carriage of that aviation fuel for use in or by DPRK.
- (2) Subclause (1) applies to,—
  - (a) in the case of a New Zealand registered craft,—
    - (i) the owner of the craft; and
    - (ii) the master or pilot in command of the craft;
  - (b) in the case of a New Zealand chartered craft,—
    - (i) the charterer of the craft; and
    - (ii) the master or pilot in command of the craft, if the master or pilot is a New Zealand citizen.

**32 Aviation fuel: Customs may refuse certificate of clearance**

The Customs may refuse to grant a certificate of clearance for a craft that a Customs officer has reasonable cause to suspect is loaded with aviation fuel that is intended to be exported to DPRK, or is intended for use in, or for the benefit of, DPRK.

**33 Aviation fuel: application of Customs and Excise Act 1996**

The provisions of the Customs and Excise Act 1996 (except section 209) apply in relation to aviation fuel that is intended to be exported to DPRK, or is intended for use in, or for the benefit of, DPRK, as if the aviation fuel were goods the exportation of which is prohibited under section 56(1) of that Act.

**34 Aviation fuel: dealing prohibited**

- (1) A person must not sell, transfer, or otherwise deal with aviation fuel knowing that the aviation fuel is intended to be supplied, sold, or transferred, directly or indirectly, for use in or by DPRK.
- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

*Inspection of goods***35 Certain goods must be inspected**

- (1) A person must not knowingly, directly or indirectly, import goods of the type specified in subclause (2) to New Zealand, or export goods of that type from New Zealand, unless the person presents the goods to the Customs for inspection.
- (2) This regulation applies to the importation and exportation of goods—
  - (a) that have originated in DPRK;
  - (b) that are destined for DPRK;
  - (c) the importation or exportation of which has been brokered by or on behalf of the Government of DPRK, a national of DPRK, or a designated person;
  - (d) that have been carried on or are to be carried on—
    - (i) a ship that is registered in DPRK or that uses the DPRK flag; or
    - (ii) an aircraft registered in DPRK.

*Prohibitions relating to ships and aircraft***36 Provision of bunkering services to DPRK ships prohibited**

- (1) A person must not provide or assist in the provision of bunkering services to a DPRK ship if the person has reasonable grounds to believe that the ship has on board any item—
  - (a) whose importation is prohibited by these regulations; or
  - (b) whose exportation is prohibited by these regulations.
- (2) Subclause (1) does not apply if the provision of bunkering services is necessary—

- (a) to facilitate the inspection of the ship's cargo or the seizure or disposal of any specified goods on the ship; or
- (b) for humanitarian purposes.

**37 Procuring crewing services from DPRK prohibited**

A person must not knowingly procure crewing services (whether for a ship or for an aircraft) from DPRK.

**38 Aircraft not to take off from, land in, or fly over New Zealand**

- (1) This regulation applies to an aircraft that has on board any item—
  - (a) whose importation is prohibited by these regulations; or
  - (b) whose exportation is prohibited by these regulations.
- (2) A person who has reasonable grounds to believe that this regulation applies to an aircraft must not permit or authorise the aircraft—
  - (a) to take off from New Zealand; or
  - (b) to land in New Zealand; or
  - (c) to fly over New Zealand.
- (3) Subclause (2)(b) does not apply to an emergency landing.

**39 Certain ships to be denied entry to New Zealand ports**

- (1) This regulation applies to a ship that—
  - (a) has refused to allow an inspection in accordance with paragraph 12 of resolution 1874 (2009); or
  - (b) is owned or controlled by a designated person; or
  - (c) has on board any item—
    - (i) whose importation is prohibited by these regulations; or
    - (ii) whose exportation is prohibited by these regulations.
- (2) A person who has reasonable grounds to believe that this regulation applies to a ship must not permit or authorise the ship to enter a New Zealand port.
- (3) Subclause (2) does not apply—
  - (a) if the ship's entry to the port is for the purpose of an inspection in accordance with paragraph 12 of resolution 1874 (2009); or
  - (b) in the case of an emergency; or
  - (c) to a New Zealand flagged ship.

**40 Certain ships not to be registered in New Zealand**

- (1) A person must not apply to register a ship under the Ship Registration Act 1992 knowing that the ship is owned or controlled by DPRK.



- (2) The registration of any ship registered under the Ship Registration Act 1992 that is owned or controlled by DPRK must be treated, from the commencement of these regulations, as if it has been closed in accordance with section 32 of the Ship Registration Act 1992.

#### **41 Craft not to be leased or chartered to DPRK or designated persons**

- (1) A person must not lease or charter a ship or an aircraft or provide crew services knowing that the ship or aircraft is leased or chartered, or the services are provided, to—
- (a) DPRK; or
  - (b) a designated person; or
  - (c) a person acting on behalf, or at the direction, of DPRK or a designated person; or
  - (d) a person who the Secretary determines, on reasonable grounds, is involved in activities prohibited by these regulations.
- (2) Subclause (1) does not apply if the lease, charter, or provision of crew services has been approved in advance by the Committee.

#### **42 Registering and dealing with DPRK ships prohibited**

- (1) A person must not knowingly register a ship in DPRK or knowingly use the DPRK flag in relation to a ship.
- (2) A person must not own, lease, or operate, or provide any classification, certification, or associated service to, a ship knowing that it is registered in DPRK or uses the DPRK flag.
- (3) Subclauses (1) and (2) do not apply if the person's activity in relation to the ship has been notified to the Committee in accordance with paragraph 20 of resolution 2270 (2016).
- (4) A person must not provide insurance (including reinsurance) in relation to a ship knowing that the ship is owned, controlled, or operated, directly or indirectly, by DPRK.
- (5) Subclause (4) does not apply if the provision of the insurance has been approved in advance by the Committee.

#### *Prohibitions relating to financial services*

#### **43 Prohibitions in relation to financial services**

- (1) A person must not establish a place of business or subsidiary in New Zealand knowing that the place of business or subsidiary is a branch or subsidiary of a financial service provider that is incorporated or established in DPRK.
- (2) A person must not establish a place of business or subsidiary in DPRK knowing that the place of business or subsidiary is a branch or subsidiary of a financial service provider incorporated or established in New Zealand.

- (3) A person must not obtain any financial service from, or provide any financial service to, a financial service provider knowing that the provider is incorporated or established in DPRK.
- (4) A person that provides any financial service to any person or entity in DPRK must stop providing the financial service if the person has reasonable grounds to believe that the financial service could contribute to—
  - (a) DPRK's nuclear, ballistic missile, or WMD programmes; or
  - (b) other activities prohibited by these regulations.
- (5) A person must not provide financial services to any other person knowing that the financial services are intended to be used for trade with DPRK unless the provision of financial services has been approved in advance by the Committee.

*Property of designated persons, DPRK, and others*

**44 Prohibition on dealing with property of designated persons, DPRK, and others**

- (1) A person must not transfer, sell, assign, dispose of, pay for, or otherwise deal with any property located in New Zealand knowing that—
  - (a) the property is owned or controlled, directly or indirectly, by—
    - (i) a designated person; or
    - (ii) the Government of DPRK or the Workers' Party of Korea; or
    - (iii) a person or an entity that the Secretary has determined is—
      - (A) assisting in the evasion or violation of the measures set out in the resolutions; or
      - (B) associated with DPRK's nuclear or ballistic missile programmes; or
  - (b) the property or the dealing could contribute to—
    - (i) DPRK's nuclear-related, ballistic missile-related, or other WMD-related programmes; or
    - (ii) other activities prohibited by these regulations; or
    - (iii) the evasion of a determination of the Security Council that applies to DPRK and that is made under Article 41 of the Charter of the United Nations.
- (2) Subclause (1) does not apply if the Minister has consented to the dealing in accordance with regulation 46.

**45 Prohibition on sending property to designated persons, DPRK, and others**

- (1) A person must not send, transfer, or deliver any property, or cause any property to be sent, transferred, or delivered, directly or indirectly, knowing that the

property is to be sent, transferred, or delivered to or for the benefit of a person or an entity specified in regulation 44(1)(a).

- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.
- (3) Subclause (1) does not apply if the Minister has consented to the sending, transfer, or delivery of the property in accordance with regulation 46.

#### **46 Minister may consent to activity prohibited by regulation 44 or 45**

- (1) If the Minister consents to an activity under this regulation, the prohibitions in regulations 44(1) and 45(1) do not apply to the activity.
- (2) In deciding whether to consent to an activity under this regulation, the Minister must have regard to paragraph 9 of resolution 1718 (2006).
- (3) The Minister may consent to an activity prohibited by regulation 44(1) or 45(1) if the Minister is satisfied that—
  - (a) the activity is necessary for a purpose described in paragraph 9 of resolution 1718 (2006) or paragraph 32 of resolution 2270 (2016); and
  - (b) any notifications and decisions required by the relevant paragraph for the purpose have been given and made in accordance with the relevant paragraph.

#### *Entry and transit of designated persons*

#### **47 Prohibition on designated persons entering or transiting through New Zealand**

- (1) The following persons must not enter New Zealand or transit through New Zealand:
  - (a) an individual who is a designated person;
  - (b) a member of the immediate family of an individual who is a designated person;
  - (c) an individual who the Secretary determines on reasonable grounds—
    - (i) is acting on behalf, or at the direction, of a designated person; or
    - (ii) is assisting in the evasion or violation of the measures set out in the resolutions.
- (2) Subclause (1) does not apply to a person who is a New Zealand citizen.
- (3) Subclause (1) does not apply so as to prevent a person from entering or transiting through New Zealand if—
  - (a) the Committee has determined that the entry or transit is justified on the grounds of humanitarian need, including religious obligation; or

- (b) the person is a representative of the Government of DPRK and the entry or transit is necessary for the person's travel to a United Nations facility to conduct United Nations business; or
  - (c) the Committee has determined that the entry or transit would further the objectives of the resolutions.
- (4) A visa may be granted under the Immigration Act 2009 to a person described in subclause (1) for the purposes of this regulation only on the advice of the Secretary that the visa is consistent with subclauses (2) and (3).
- (5) This regulation operates in addition to the Immigration Act 2009 and any regulations made under that Act and, in relation to a person described in section 17(2)(a) of that Act, applies despite that section.

*Deportation of specified persons*

**48 Specified persons**

- (1) A person is a **specified person** if—
- (a) the person is in New Zealand; and
  - (b) the person is a national of any State that is not New Zealand; and
  - (c) the person is a designated person or there are reasonable grounds to believe that the person—
    - (i) is acting on behalf, or at the direction, of a designated person; or
    - (ii) is assisting in the evasion or violation of the measures set out in the resolutions; or
    - (iii) is working for, on behalf of, or at the direction of a financial service provider that is incorporated or established in DPRK.
- (2) However, a person is **not a specified person** if—
- (a) the person is a New Zealand citizen; or
  - (b) the person's presence in New Zealand is justified on the grounds of humanitarian need, including religious obligation; or
  - (c) the person's presence in New Zealand is necessary to give effect to a judicial process; or
  - (d) the person is a representative of the Government of DPRK and the person's presence in New Zealand is necessary for the person's travel to a United Nations facility to conduct United Nations business; or
  - (e) the Committee has determined that expelling the person from New Zealand would be contrary to the objectives of the resolutions.

**49 Order for deportation**

- (1) If the Minister certifies that a person is a specified person, the Governor-General may, by Order in Council, order the deportation from New Zealand of that person.
- (2) The person named in the order is accordingly liable for deportation.
- (3) The Governor-General may, by Order in Council, revoke an order made under subclause (1).
- (4) An order made under subclause (1) is a deportation order for the purposes of the Immigration Act 2009 and must be treated as if it were made under section 163 of that Act, and the provisions of that Act (including section 176) apply accordingly.

**50 No delegation of power to certify that person is specified person**

The Minister may not delegate the power to certify that a person is a specified person.

**51 Detention and monitoring of person suspected of being specified person**

- (1) A person who is, on reasonable grounds, suspected by an immigration officer or a constable of being a specified person is liable to arrest and detention under Part 9 of the Immigration Act 2009 as if he or she were a person who was, on reasonable grounds, suspected by an immigration officer or a constable of constituting a threat or risk to security, and the provisions of that Part apply accordingly.
- (2) Without limiting subclause (1), the provisions of Part 9 of the Immigration Act 2009 apply with the following modifications:
  - (a) the references in sections 314, 316, and 322(2) to the Minister must be treated as references to the Minister of Foreign Affairs; and
  - (b) any other necessary modifications.

**52 Classified information**

- (1) Classified information may be relied on in making decisions or determining proceedings under the Immigration Act 2009 (as applied and modified by these regulations) if the Minister determines that the classified information relates to matters of security or criminal conduct.

*Minister may rely on classified information in deciding whether to certify that person is specified person*

- (2) If subclause (1) applies, the Minister may rely on classified information in deciding whether to certify that a person is a specified person.
- (3) Sections 34 to 42 of the Immigration Act 2009 apply, as appropriate and with the modifications set out in subclause (5) and any other necessary modifications, if the Minister makes a decision relying on classified information.

*Proceedings involving classified information*

- (4) Sections 240 to 244 and 252 to 270 of the Immigration Act 2009 apply, with the modifications set out in subclause (5) and any other necessary modifications, to any proceedings relating to a decision by the Minister that involves classified information to which subclause (1) applies.

*References to Minister to be treated as references to Minister of Foreign Affairs*

- (5) For the purposes of this regulation, each reference to the Minister in sections 34 to 40, 259, 262, 263, 265, and 267 of the Immigration Act 2009 must be treated as a reference to the Minister of Foreign Affairs.

**53 Regulations operate in addition to Immigration Act 2009**

Regulations 48 to 52 operate in addition to the Immigration Act 2009 and any regulations made under that Act.

*Minister's consent***54 Minister may consent to prohibited activity**

- (1) If the Minister consents to an activity under this regulation, any prohibition that would otherwise apply to the activity under these regulations does not apply to the activity.
- (2) The Minister may consent to an activity under this regulation only if the Minister is satisfied that the activity is—
- (a) justified on humanitarian grounds; or
  - (b) not inconsistent with the objectives of the resolutions.

*Miscellaneous provisions***55 Offences**

For the purposes of section 3(1) of the United Nations Act 1946, a person who contravenes or fails to comply with any provision of these regulations commits an offence against these regulations.

**56 Attorney-General's consent needed for certain prosecutions**

A prosecution for an offence against these regulations that is alleged to have been committed outside New Zealand may not be commenced without—

- (a) the Attorney-General's consent; and
- (b) the Attorney-General's certificate that it is expedient that the prosecution be commenced.

**57 Revocation**

The United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2006 (SR 2006/382) are revoked.

## Schedule

### Luxury goods

r 3(1)

Alcoholic beverages

Bone china

Cameras and movie equipment

Carpets and tapestries

Cars, motorcycles, snowmobiles, aircraft, and their parts and accessories

Caviar and its substitutes

Chocolate

Computers, audiovisual equipment, data or software (for example, films, music, or both, recorded or stored digitally), and things on which data or software is or may be recorded or stored

Cosmetics

Crustaceans, molluscs, aquatic invertebrates, and goods containing those species

Crystal glassware

Deer velvet

Designer clothing

Designer furniture

Fountain pens

Fur products and artificial fur products

Honey and its derivatives

Jewellery

Leather bags and clothes

Mobile telephones

Musical instruments

Perfumes

Portable electronic devices (for example, digital audio players, activity trackers, and headsets)

Precious metals (of any kind, including, but not limited to, the precious metals specified in the definition of that term in regulation 3(1)), precious and semi-precious stones, and articles made from them

Ships and their parts and accessories

Sporting goods and equipment

Tobacco

Tuna, toothfish, salmon, and goods containing those species

Works of art, collector's pieces, and antiques

Wristwatches

Michael Webster,  
Clerk of the Executive Council.

### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 18 May 2017, give effect to various resolutions of the Security Council of the United Nations that relate to the Democratic People's Republic of Korea (**DPRK**). These regulations revoke and replace the United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2006.

The regulations prohibit a number of activities and, in a few cases, impose requirements on certain people or in relation to certain activities. *Regulation 55* provides that contravening or failing to comply with any provision of the regulations is an offence. The penalties for such an offence are set out in section 3(1) of the United Nations Act 1946.

Many of the prohibitions and requirements apply to designated persons. Designated person is defined in *regulation 3(1)*. In summary, a designated person is an individual or entity designated by or under one of the resolutions or determined by the Secretary of Foreign Affairs and Trade to be acting on behalf, or at the direction, of another designated person, assisting the evasion of measures contained in the resolutions, or violating the provisions of the resolutions.

Many of the prohibitions and requirements set out in the regulations are subject to exceptions. For example, some prohibitions do not apply to an activity that has been approved in advance by the relevant Committee of the Security Council. For the most part, the exceptions closely reflect the exceptions that are contained in the resolutions. However, *regulation 54* also provides for the Minister of Foreign Affairs (the **Minister**) to consent to an activity with the effect that any prohibition that would otherwise apply to the activity does not apply. The Minister may consent to an activity under *regulation 54* only if the Minister is satisfied that the activity is—

- justified on humanitarian grounds; or
- not inconsistent with the objectives of the resolutions.

The regulations prohibit—

- exporting arms to DPRK and related activities and dealings (*regulations 4, 5, 6, and 9*):
- importing arms into New Zealand from DPRK and related activities and dealings (*regulations 4, 6, and 9*):



- providing assistance or training that relates to arms or certain nuclear matters to persons in DPRK (*regulation 10*):
- exporting luxury goods to DPRK and related activities and dealings (*regulations 11, 12, 13, and 16*):
- importing precious metals into New Zealand from DPRK and related activities and dealings (*regulations 17, 18, and 20*):
- importing statues into New Zealand from DPRK and related activities and dealings (*regulations 21 to 24*):
- importing coal and iron into New Zealand from DPRK and related activities and dealings (*regulations 25 to 28*):
- exporting aviation fuel to DPRK and related activities and dealings (*regulations 29 to 34*):
- providing bunkering services to DPRK ships (*regulation 36*):
- procuring crewing services for ships or aircraft from DPRK (*regulation 37*):
- permitting or authorising aircraft carrying prohibited imports or exports to take off from, fly over, or land in New Zealand (*regulation 38*):
- permitting or authorising certain ships to enter a New Zealand port (*regulation 39*):
- registering certain ships in New Zealand (*regulation 40*):
- leasing or chartering ships or aircraft to, or providing crew services to, DPRK and certain related persons (*regulation 41*):
- registering ships in DPRK or using the DPRK flag (*regulation 42*):
- establishing branches or subsidiaries in New Zealand of DPRK financial service providers (*regulation 43(1)*):
- establishing branches or subsidiaries in DPRK of New Zealand financial service providers (*regulation 43(2)*):
- obtaining financial services from, or providing financial services to, DPRK financial service providers (*regulation 43(3)*):
- providing persons in DPRK with financial services that could contribute to DPRK's nuclear, ballistic missile, or weapons of mass destruction (**WMD**) programmes or to other activities prohibited by these regulations or with financial services that are intended to be used for trade with DPRK (*regulation 43(4) and (5)*):
- dealing with property in New Zealand knowing that it is owned or controlled by DPRK or certain related persons or that the property or dealing could contribute to DPRK's nuclear, ballistic missile, or WMD programmes or to other activities prohibited by these regulations, or to the evasion of measures in a Security Council resolution (*regulation 44*):
- sending property to certain persons related to DPRK (*regulation 45*):

- individuals who are designated persons and their immediate relatives and any other individual whom the Secretary of Foreign Affairs and Trade determines to be acting on behalf of a designated person from entering or transiting through New Zealand (*regulation 47*).

*Regulation 35* requires a person that imports or exports goods to or from DPRK to present the goods to the Customs for inspection.

*Regulations 48 to 52* provide for the deportation from New Zealand of a person who—

- is a national of any State that is not New Zealand; and
- is a designated person or is believed on reasonable grounds to be—
  - acting on behalf, or at the direction, of a designated person; or
  - assisting in the evasion or violation of the measures set out in the resolutions; or
  - working for, on behalf of, or at the direction of a financial service provider that is incorporated or established in DPRK.

*Regulation 48(2)* sets out some circumstances in which a person who meets those criteria will not be subject to deportation. *Regulation 51* provides for powers of detention and monitoring in respect of a person who is suspected of meeting those criteria. *Regulation 52* enables the Minister to rely on classified information in deciding whether to certify that a person meets the criteria for deportation and provides for special rules to apply in proceedings where classified information is involved.

Issued under the authority of the Legislation Act 2012.

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These regulations are administered by the Ministry of Foreign Affairs and Trade.