



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

Patsy Reddy, Governor-General

Order in Council

At Wellington this 4th day of December 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; and
- (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 2356 (2017) adopted on 2 June 2017:
 - (ii) resolution 2371 (2017) adopted on 5 August 2017:
 - (iii) resolution 2375 (2017) adopted on 11 September 2017.

Contents

	Page
1 Title	3
2 Commencement	3
3 Principal regulations	3
4 Enacting statement amended	3
5 Regulation 3 amended (Interpretation)	3
6 Regulations 17 to 28 and cross-headings replaced	4
<i>Restricted items</i>	
17 Definition of restricted item	4
18 Restricted item: importation prohibited	5

19	Restricted item: carrying on New Zealand craft prohibited	5
20	Restricted item: dealing prohibited	5
21	Restricted item: application of Customs and Excise Act 1996	6
7	Regulations 29 to 34 and cross-heading replaced	6
<i>Petroleum products</i>		
29	Definition of specified petroleum product	6
30	Specified petroleum product: exportation prohibited	6
31	Specified petroleum product: loading onto craft prohibited	6
32	Specified petroleum product: carrying on New Zealand craft prohibited	7
33	Crude oil or specified petroleum product: Customs may refuse certificate of clearance	7
34	Specified petroleum product: dealing prohibited	7
34A	Specified petroleum product: application of Customs and Excise Act 1996	7
34B	Crude oil: dealing prohibited	8
8	New regulations 35A and 35B and cross-heading inserted	8
<i>Joint ventures</i>		
35A	Joint ventures prohibited	8
35B	Termination of existing joint venture	8
9	Regulation 39 amended (Certain ships to be denied entry to New Zealand ports)	9
10	Regulation 42 amended (Registering and dealing with DPRK ships prohibited)	9
11	New regulation 42A inserted (Ship-to-ship transfers prohibited)	9
42A	Ship-to-ship transfers prohibited	9
12	New regulation 46A and cross-heading inserted	10
<i>Authorisations to work: DPRK nationals</i>		
46A	No work authorisations for DPRK nationals	10
13	New regulation 54A and cross-heading inserted	10
<i>Committee exemptions</i>		
54A	Effect of Committee exemptions	10
14	Schedule amended	10

Regulations

1 Title

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

2 Commencement

These regulations come into force on 4 January 2018.

3 Principal regulations

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

4 Enacting statement amended

In the enacting statement, after paragraph (b)(vi), insert:

- (vii) resolution 2356 (2017) adopted on 2 June 2017:
- (viii) resolution 2371 (2017) adopted on 5 August 2017:
- (ix) resolution 2375 (2017) adopted on 11 September 2017.

5 Regulation 3 amended (Interpretation)

(1) In regulation 3(1), definition of **designated person**,—

- (a) paragraph (a)(i), replace “paragraph 8(e)” with “paragraph 8(d) or (e)”:
- (b) after paragraph (a)(v), insert:

- (vi) Annex I of resolution 2356 (2017):
- (vii) Annex I of resolution 2371 (2017):
- (viii) Annex I of resolution 2375 (2017):

(c) after paragraph (b)(v), insert:

- (vi) Annex II of resolution 2356 (2017):
- (vii) Annex II of resolution 2371 (2017):
- (viii) Annex II of resolution 2375 (2017):

(2) In regulation 3(1), definition of **resolutions**, replace “and resolution 2321 (2016)” with “resolution 2321 (2016), resolution 2356 (2017), resolution 2371 (2017), and resolution 2375 (2017)”.

(3) In regulation 3(1), definition of **WMD-related and ballistic missile-related goods**,—

- (a) paragraph (a)(v), before “S/2012/947”, insert “Security Council document”; and
- (b) paragraph (a)(vi), replace “(2013); or” with “(2013):”; and
- (c) after paragraph (a)(vi), insert:

(vii) Security Council document S/2017/728; or

(4) In regulation 3(1), insert in their appropriate alphabetical order:

base metal means—

- (a) copper:
- (b) iron or iron ore:
- (c) lead or lead ore:
- (d) nickel:
- (e) titanium ore:
- (f) vanadium ore:
- (g) zinc

designated ship means a ship that has been designated by the Committee under paragraph 6 of resolution 2371 (2017)

resolution 2356 (2017) means resolution 2356 of the Security Council, adopted on 2 June 2017

resolution 2371 (2017) means resolution 2371 of the Security Council, adopted on 5 August 2017

resolution 2375 (2017) means resolution 2375 of the Security Council, adopted on 11 September 2017

seafood means any of the following in all forms: fish and crustaceans, molluscs, and other aquatic invertebrates

textile means any cloth or fabric and includes—

- (a) any thread, yarn, or material from which a cloth or fabric can be made; and
- (b) any partially or fully completed product made from a cloth or fabric

(5) In regulation 3(1), revoke the definition of **precious metals**.

6 Regulations 17 to 28 and cross-headings replaced

Replace regulations 17 to 28 and the cross-headings above regulations 17, 21, and 25 with:

Restricted items

17 Definition of restricted item

In regulations 18 to 21, **restricted item** means—

- (a) gold:
- (b) silver:
- (c) a rare metal:
- (d) a base metal:

- (e) coal:
- (f) seafood:
- (g) a statue:
- (h) a textile.

18 Restricted item: importation prohibited

- (1) A person must not import, directly or indirectly, a restricted item into New Zealand knowing that the restricted item is from DPRK (whether or not the restricted item originated in DPRK).
- (2) However, subclause (1) and regulations 19 to 21 do not apply to—
 - (a) an importation or any other activity that—
 - (i) relates to coal that is described in paragraph 26 of resolution 2321 (2016), as replaced by paragraph 8 of resolution 2371 (2017); and
 - (ii) is approved in advance by the Minister; or
 - (b) a transaction that—
 - (i) is described in paragraph 26 of resolution 2321 (2016), as replaced by paragraph 8 of resolution 2371 (2017); and
 - (ii) is approved in advance by the Minister.

19 Restricted item: carrying on New Zealand craft prohibited

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

20 Restricted item: dealing prohibited

- (1) A person must not sell, transfer, or otherwise deal with a restricted item knowing that the restricted item 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.

21 Restricted item: application of Customs and Excise Act 1996

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

7 Regulations 29 to 34 and cross-heading replaced

Replace regulations 29 to 34 and the cross-heading above regulation 29 with:

Petroleum products

29 Definition of specified petroleum product

In regulations 30 to 34A, **specified petroleum product** means aviation fuel, any other refined petroleum product, or any natural gas liquid or condensate.

30 Specified petroleum product: exportation prohibited

- (1) A person must not export, directly or indirectly, a specified petroleum product from New Zealand knowing that the specified petroleum product is intended—
- (a) to be exported to DPRK; or
 - (b) for use in DPRK; or
 - (c) for the benefit of DPRK.
- (2) However, subclause (1) and regulations 31 to 34A do not apply,—
- (a) in the case of aviation fuel,—
 - (i) if its exportation has been approved in advance by the Committee; or
 - (ii) if it is sold or supplied outside DPRK for use by a civilian passenger aircraft during the aircraft's flight to or from DPRK; or
 - (b) in the case of any other refined petroleum product, if it is the subject of an exception set out in paragraph 14 of resolution 2375 (2017).

31 Specified petroleum product: loading onto craft prohibited

The master or pilot of a craft must not allow a specified petroleum product to be loaded onto the craft knowing that the specified petroleum product is intended—

- (a) to be exported to DPRK; or
- (b) for use in DPRK; or
- (c) for the benefit of DPRK.

32 Specified petroleum product: carrying on New Zealand craft prohibited

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

33 Crude oil or specified petroleum product: 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 crude oil, or a specified petroleum product, that is intended—

- (a) to be exported to DPRK; or
- (b) for use in DPRK; or
- (c) for the benefit of DPRK.

34 Specified petroleum product: dealing prohibited

- (1) A person must not sell, transfer, or otherwise deal with a specified petroleum product knowing that the specified petroleum product 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.

34A Specified petroleum product: application of Customs and Excise Act 1996

The provisions of the Customs and Excise Act 1996 (except section 209) apply in relation to a specified petroleum product as if the specified petroleum product were goods the exportation of which is prohibited under section 56(1) of that Act if the specified petroleum product is intended—

- (a) to be exported to DPRK; or
- (b) for use in DPRK; or
- (c) for the benefit of DPRK.

34B Crude oil: dealing prohibited

- (1) A person must not knowingly supply, sell, or transfer crude oil to DPRK.
- (2) However, subclause (1) does not apply if the supply, sale or transfer of crude oil has been approved in advance by the Committee.
- (3) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

8 New regulations 35A and 35B and cross-heading inserted

After regulation 35, insert:

*Joint ventures***35A Joint ventures prohibited**

- (1) In this regulation and regulation 35B, **restricted person or entity** means a person or entity who—
 - (a) is a national of DPRK (and not a citizen or permanent resident of New Zealand); or
 - (b) is a corporation, partnership, trust, or other entity (the **entity**) incorporated or established under DPRK law or that can otherwise reasonably be regarded as a DPRK entity.
- (2) A person must not enter into, maintain, or operate a joint venture or any other co-operative enterprise with any person or entity (**B**), knowing that B is a restricted person or entity.

35B Termination of existing joint venture

- (1) A person who entered into a joint venture or any other co-operative enterprise with any person or entity (**C**) before 12 September 2017 must not maintain, operate, or participate in the joint venture or other co-operative enterprise after 8 January 2018, knowing that C is a restricted person or entity.
- (2) Subclause (1) does not apply with regard to a joint venture or other co-operative enterprise that—
 - (a) is one of the projects specifically excepted in paragraph 18 of resolution 2375 (2017); or
 - (b) is the subject of an application made before 9 January 2018 to the Committee for approval of the joint venture or other co-operative enterprise.
- (3) If an application is made to the Committee for approval of the joint venture or other co-operative enterprise and the Committee decides not to approve the application, the person who entered into the joint venture or other co-operative enterprise must not maintain, operate, or participate in the joint venture or other co-operative enterprise after the expiry of 120 days after the Committee's decision.

9 Regulation 39 amended (Certain ships to be denied entry to New Zealand ports)

- (1) After regulation 39(1)(b), insert:
 - (ba) is a designated ship; or
- (2) After regulation 39(3)(b), insert:
 - (ba) in the case of a designated ship, if the ship is returning to its port of origin or the Committee has determined in advance that its entry to the port is required for humanitarian purposes or any other purpose consistent with the objectives of the resolutions; or

10 Regulation 42 amended (Registering and dealing with DPRK ships prohibited)

- (1) In regulation 42(2), replace “lease, or” with “lease, charter, or”.
- (2) Replace regulation 42(3) with:
- (3) Subclauses (1) and (2) do not apply if—
 - (a) the person’s activity in relation to the ship has been notified to the Committee in accordance with paragraph 20 of resolution 2270 (2016); or
 - (b) in the case of the chartering of a ship, it has been approved in advance by the Committee.

11 New regulation 42A inserted (Ship-to-ship transfers prohibited)

After regulation 42, insert:

42A Ship-to-ship transfers prohibited

- (1) This regulation applies with respect to goods or items that are supplied, sold, or transferred to DPRK or supplied by, sold by, or transferred from DPRK (in this regulation, **goods**).
- (2) A person must not knowingly transfer goods or facilitate a transfer of goods between any ship and a DPRK ship.
- (3) Subclause (2) applies—
 - (a) to any person in New Zealand and to a New Zealand citizen in any place outside New Zealand; and
 - (b) in the case of a New Zealand registered craft,—
 - (i) to the owner of the craft; and
 - (ii) to the master or pilot in command of the craft; and
 - (c) in the case of a New Zealand chartered craft,—
 - (i) to the charterer of the craft; and
 - (ii) to the master or pilot in command of the craft, if the master or pilot is a New Zealand citizen.

12 New regulation 46A and cross-heading inserted

After regulation 46, insert:

*Authorisations to work: DPRK nationals***46A No work authorisations for DPRK nationals**

- (1) A person who is a national of DPRK is not eligible to obtain a visa, or any other authorisation, that would entitle the person to work in New Zealand.
- (2) Subclause (1) does not apply with regard to—
 - (a) a visa or other authorisation that implements a written contract made before the adoption of resolution 2375 (2017); or
 - (b) a visa or other authorisation approved in advance by the Committee.

13 New regulation 54A and cross-heading inserted

After regulation 54, insert:

*Committee exemptions***54A Effect of Committee exemptions**

If the Committee exempts any activity from the measures imposed by the resolutions, any prohibition that would otherwise apply to the activity under these regulations does not apply to the activity.

14 Schedule amended

In the Schedule, item relating to precious metals, replace “(of any kind, including, but not limited to, the precious metals specified in the definition of that term in regulation 3(1))” with “of any kind”.

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 4 January 2018, amend the United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2017. These regulations give effect to 3 additional resolutions of the Security Council of the United Nations: resolution 2356 (2017), resolution 2371 (2017), and resolution 2375 (2017).

These regulations implement the restrictions in those resolutions relating to—

- importing seafood, iron ore, lead and lead ore, and textiles from the Democratic People's Republic of Korea (DPRK):
- exporting refined petroleum products and natural gas liquids and condensates to DPRK:
- supplying, selling, or transferring crude oil to DPRK:
- entering into, maintaining, operating, or participating in or continuing with, a joint venture or co-operative enterprise with any national of DPRK or DPRK entity:
- obtaining a visa or any other authorisation required for a DPRK national to work in New Zealand:
- entry to New Zealand ports of any ships designated under resolution 2371 (2017):
- the transfer of goods between any ship and a DPRK ship.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 7 December 2017.

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