



United Nations Sanctions (Democratic People's Republic of Korea) Amendment Regulations 2018

Patsy Reddy, Governor-General

Order in Council

At Wellington this 28th day of May 2018

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 2(1) 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 resolution 2397 (2017) of the United Nations Security Council, adopted under the United Nations Charter on 22 December 2017.

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Regulations

1 Title

These regulations are the United Nations Sanctions (Democratic People's Republic of Korea) Amendment Regulations 2018.

2 Commencement

- (1) These regulations, except regulations 20 to 22, come into force on 28 June 2018.
- (2) Regulations 20 to 22 come into force immediately after the commencement of Part 4 of Schedule 9 of the Customs and Excise Act 2018 (*see* section 2(4) of that Act).

3 Principal regulations

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

Amendments to give effect to resolution 2397 (2017)

4 Enacting statement amended

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

- (x) resolution 2397 (2017) adopted on 22 December 2017.

5 Regulation 3 amended (Interpretation)

- (1) In regulation 3(1), definition of **bunkering service**, replace “vessel” with “ship” in each place.
- (2) In regulation 3(1), definition of **designated person**,—
 - (a) after paragraph (a)(viii), insert:

(ix) Annex I of resolution 2397 (2017):
 - (b) after paragraph (b)(viii), insert:

(ix) Annex II of resolution 2397 (2017):
 - (c) after paragraph (c)(iii), insert:
 - (d) an individual that the Secretary determines—
 - (i) meets the description in paragraph 8 of resolution 2397 (2017); but
 - (ii) is not the subject of an exception specified in paragraph 8 of resolution 2397 (2017)
- (3) In regulation 3(1), insert in their appropriate alphabetical order:

earth and stone—

 - (a) means items falling within HS chapter 25; and
 - (b) includes magnesite and magnesia

electrical equipment means items falling within HS chapter 85

fishing right includes a fishing licence, permit, authority, or other right to fish

food and agricultural products means items falling within HS chapters 07, 08, and 12

Harmonised System has the same meaning as in regulation 2(1) of the Customs and Excise Regulations 1996

HS chapter means the chapter identified by 2 digits in the Harmonised System

industrial machinery means items falling within HS chapters 84 and 85

iron, steel, and other metals means items falling within HS chapters 72 to 83

machinery means items falling within HS chapter 84

resolution 2397 (2017) means resolution 2397 (2017) of the Security Council, adopted on 22 December 2017

restricted export goods means—

 - (a) any item that is listed in Part 1 or 2 of Schedule 1; and
 - (b) luxury goods

restricted import goods means any item that is listed in Schedule 2

transportation vehicles means items falling within HS chapters 86 to 89

vessels means items falling within HS chapter 89

wood means items falling within HS chapter 44.

- (4) In regulation 3(1), revoke the definition of **iron**.
- (5) In regulation 3(1), definition of **luxury goods**, replace paragraph (a) with:
 - (a) Part 1 of Schedule 1:
- (6) In regulation 3(1), replace the definition of **resolutions** with:

resolutions means resolution 1718 (2006), resolution 1874 (2009), resolution 2087 (2013), resolution 2094 (2013), resolution 2270 (2016), resolution 2321 (2016), resolution 2356 (2017), resolution 2371 (2017), resolution 2375 (2017), and resolution 2397 (2017)
- (7) In regulation 3(2)(a), after “paragraph (c)”, insert “or (d)”.
- (8) In regulation 3(2)(d), replace “regulation 10(2)” with “regulation 10(3)”.

6 Regulation 7 amended (Arms: Customs may refuse certificate of clearance)

In regulation 7, replace “The Customs” with “Customs”.

7 Regulations 11 to 21 and cross-headings replaced

Replace regulations 11 to 21 and the cross-headings above regulations 11 and 17 with:

Restricted export goods

11 Restricted export goods: exportation prohibited

- (1) A person must not export, directly or indirectly, restricted export goods from New Zealand knowing that the goods are 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 12 to 16 do not apply in relation to the exportation of—
 - (a) a new helicopter or a new or used ship, if the exportation has been approved in advance by the Committee; or
 - (b) spare parts needed to maintain the safe operation of any DPRK commercial civilian passenger aircraft as set out in paragraph 7 of resolution 2397 (2017); or
 - (c) luxury goods, if—
 - (i) the goods are for personal use; and
 - (ii) the goods are intended to be returned to New Zealand.

12 Restricted export goods: loading onto craft prohibited

The master or pilot of a craft must not allow restricted export goods to be loaded or taken onto the craft knowing—

- (a) that the goods are restricted export goods; and
- (b) that the goods are intended—
 - (i) to be exported to DPRK; or
 - (ii) for use in DPRK; or
 - (iii) for the benefit of DPRK.

13 Restricted export goods: carrying on New Zealand craft prohibited

(1) A person must not use a New Zealand craft to carry restricted export goods knowing that—

- (a) the craft is carrying restricted export 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 Restricted export goods: Customs may refuse certificate of clearance

Customs may refuse to grant a certificate of clearance for a craft that a Customs officer has reasonable cause to suspect is loaded with restricted export goods that are intended—

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

15 Restricted export goods: application of Customs and Excise Act 1996

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

- (a) to be exported to DPRK; or
- (b) for use in DPRK; or

- (c) for the benefit of DPRK.

16 Restricted export goods: dealing prohibited

- (1) A person must not sell, transfer, or otherwise deal with any restricted export goods knowing that the goods are intended—
 - (a) to be supplied, sold, or transferred, directly or indirectly, to DPRK; or
 - (b) for use in DPRK; or
 - (c) 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.

Restricted import goods

17 Restricted import goods: importation prohibited

- (1) A person must not import, directly or indirectly, restricted import goods into New Zealand knowing that the goods are from DPRK (whether or not the goods originated in DPRK).
- (2) However, subclause (1) and regulations 18 to 20 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; or
 - (c) an importation of gold, silver, a rare metal, a base metal, or a textile that—
 - (i) is for personal use; and
 - (ii) had originated in any place outside DPRK.

18 Restricted import goods: carrying on New Zealand craft prohibited

- (1) A person must not use a New Zealand craft to carry restricted import goods knowing that—
 - (a) the craft is carrying restricted import goods; and
 - (b) the carriage is, or forms part of, the carriage of those restricted import goods 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.

19 Restricted import goods: dealing prohibited

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

20 Restricted import goods: application of Customs and Excise Act 1996

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

Fishing rights

21 Fishing rights: dealing prohibited

- (1) A person must not knowingly procure or transfer, directly or indirectly, fishing rights from DPRK.
- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

Crude oil

22 Crude oil: exportation prohibited

- (1) A person must not export, directly or indirectly, crude oil from New Zealand (whether or not the crude oil originated in New Zealand) knowing that the crude oil 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 23 to 27 do not apply to an exportation that is—
 - (a) undertaken for the purposes described in paragraph 4 of resolution 2397 (2017) and approved in advance by the Committee; or

- (b) approved in advance by the Minister.

23 Crude oil: loading onto craft prohibited

The master or pilot in command of a craft must not allow crude oil to be loaded onto the craft knowing that the crude oil is intended—

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

24 Crude oil: carrying on New Zealand craft prohibited

- (1) A person must not use a New Zealand craft to carry crude oil knowing that—

- (a) the craft is carrying crude oil; and
- (b) the carriage is, or forms part of, the carriage of the crude oil 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.

25 Crude oil: Customs may refuse certificate of clearance

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 that is intended—

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

26 Crude oil: application of Customs and Excise Act 1996

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

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

27 Crude oil: dealing prohibited

- (1) A person must not knowingly supply, sell, or transfer crude oil to DPRK.
- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

8 Cross-heading above regulation 29 replaced

Replace the cross-heading above regulation 29 with:

Specified petroleum products

9 Regulation 30 amended (Specified petroleum product: exportation prohibited)

- (1) In regulation 30(1), after “New Zealand”, insert “(whether or not the specified petroleum product originated in New Zealand)”.
- (2) Replace regulation 30(2)(b) with:
 - (b) in the case of any other refined petroleum product, if it is the subject of an exception set out in—
 - (i) paragraph 14 of resolution 2375 (2017); or
 - (ii) paragraph 5 of resolution 2397 (2017).

10 Regulation 33 amended (Crude oil or specified petroleum product: Customs may refuse certificate of clearance)

- (1) Replace the heading to regulation 33 with “**Specified petroleum product: Customs may refuse certificate of clearance**”.
- (2) In regulation 33, replace “The Customs” with “Customs”.
- (3) In regulation 33, delete “ crude oil, or”.

11 Regulation 34B revoked (Crude oil: dealing prohibited)

Revoke regulation 34B.

12 Regulation 35 amended (Certain goods must be inspected)

In regulation 35(1), replace “the Customs” with “Customs”.

13 Regulation 40 replaced (Certain ships not to be registered in New Zealand)

Replace regulation 40 with:

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—
 - (a) the ship is owned or controlled by DPRK; or
 - (b) the ship was deregistered by another State in accordance with paragraph 12 of resolution 2397 (2017).

- (2) However, subclause (1) does not apply to a ship the registration of which has been approved in advance by the Committee.
- (3) This subclause and subclause (4)—
- (a) apply to any ship that—
- (i) is registered under the Ship Registration Act 1992; and
- (ii) is a ship—
- (A) that is owned or controlled by DPRK; or
- (B) that the Registrar of Ships has reasonable grounds to believe was involved in activities, or the transport of items, prohibited by the resolutions; but
- (b) do not apply to a ship the registration of which has been approved in advance by the Committee.
- (4) If subclause (3)(a) applies to a ship,—
- (a) the ship is treated as a ship that has ceased to be entitled to be registered under the Ship Registration Act 1992; and
- (b) section 32 of the Ship Registration Act 1992 applies to the ship.
- (5) Nothing in this regulation prevents a person from applying to reregister, or prevents the reregistration of, any ship under the Ship Registration Act 1992—
- (a) that is no longer owned or controlled by DPRK; or
- (b) that the Registrar of Ships has reasonable grounds to believe is no longer involved in activities, or the transport of items, prohibited by the resolutions; or
- (c) that has its registration approved in advance by the Committee, and to which paragraph (a) or (b) applies.

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

Replace regulation 42(4) with:

- (4) A person must not provide insurance (including reinsurance) in relation to a ship if the person knows that after 22 December 2017 the ship was involved in activities, or the transport of items, prohibited by the resolutions.

15 Regulation 43 amended (Prohibitions in relation to financial services)

- (1) In regulation 43(1), after “incorporated or established in DPRK”, insert “or that is incorporated or established by a beneficial owner in DPRK”.
- (2) In regulation 43(3), after “incorporated or established in DPRK”, insert “or incorporated or established by a beneficial owner in DPRK”.

16 Regulation 46A amended (No work authorisations for DPRK nationals)

Replace regulation 46A(2) with:

- (2) However, subclause (1) does not apply with regard to a visa or any other authorisation approved in advance by the Committee.

17 Regulation 48 amended (Specified persons)

Replace regulation 48(1) with:

- (1) A person is a **specified person** if—
- (a) the person—
 - (i) is in New Zealand; and
 - (ii) is a national of any State that is not New Zealand; and
 - (iii) is a designated person or there are reasonable grounds to believe that the person—
 - (A) is acting on behalf, or at the direction, of a designated person; or
 - (B) is assisting in the evasion or violation of the measures set out in the resolutions; or
 - (C) is working for, on behalf of, or at the direction of a financial service provider that is incorporated or established in DPRK or that is incorporated or established by a beneficial owner in DPRK; or
 - (b) the person—
 - (i) is in New Zealand; and
 - (ii) is a national of DPRK; and
 - (iii) is a designated person who has been designated by the Secretary having regard to paragraph 8 of resolution 2397 (2017).

18 Schedule replaced

Replace the Schedule with the Schedule 1 set out in Schedule 1 of these regulations.

19 New Schedule 2 inserted

After the Schedule, insert the Schedule 2 set out in Schedule 2 of these regulations.

*Amendments immediately following commencement of Part 4 of Schedule 9 of
Customs and Excise Act 2018*

20 Regulation 15 replaced (Restricted export goods: application of Customs and Excise Act 1996)

Replace regulation 15 with:

15 Restricted export goods: application of Customs and Excise Act 2018

The provisions of the Customs and Excise Act 2018 (except sections 388 and 389) apply in relation to restricted export goods as if the goods were goods the exportation of which is prohibited under section 96 of that Act, if the goods are intended—

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

21 Regulation 20 replaced (Restricted import goods: application of Customs and Excise Act 1996)

Replace regulation 20 with:

20 Restricted import goods: application of Customs and Excise Act 2018

The provisions of the Customs and Excise Act 2018 (except sections 388 and 389) apply in relation to restricted import goods imported to New Zealand from DPRK as if the restricted import goods were goods the importation of which is prohibited under section 96 of that Act.

22 Regulation 21 replaced (Fishing rights: dealing prohibited)

Replace regulation 21 with:

21 Fishing rights: dealing prohibited

- (1) A person must not knowingly procure or transfer, directly or indirectly, fishing rights from DPRK.
- (2) Subclause (1) applies to a person in New Zealand and to a New Zealand citizen in any place outside New Zealand.

Schedule 1
Schedule replaced

r 18

Schedule 1
Restricted export goods

r 3(1)

Part 1
Specified luxury goods

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 or 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, 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

Part 2
Other goods

Industrial machinery

Iron, steel, and other metals
Transportation vehicles

Schedule 2 New Schedule 2 inserted

r 19

Schedule 2 Restricted import goods

r 3(1)

Base metals
Coal
Earth and stone
Electrical equipment
Food and agricultural products
Gold
Machinery
Rare metals
Seafood
Silver
Statues
Textiles
Vessels
Wood

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 amend the United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2017 (the **principal regulations**). These regulations, except *regulations 20 to 22*, come into force on 28 June 2018.

Amendments to give effect to resolution 2397 (2017)

These regulations, which impose additional sanctions on the Democratic People's Republic of Korea (DPRK), give effect to United Nations Security Council resolution 2397 (2017), adopted on 22 December 2017. The amendments made by these regulations include—

- an extension to the scope of the definition of designated person in regulation 3(1) of the principal regulations to additional DPRK individuals and entities referred to in United Nations Security Council resolution 2397 (2017):
- an extension to prohibitions in relation to the export of additional products to DPRK (including industrial machinery, metals, and transportation vehicles) (*see Part 2 of new Schedule 1*):
- an extension to prohibitions in relation to the import of additional products from DPRK (including agricultural products, machinery, electrical equipment, and vessels) (*see new Schedule 2*):
- prohibitions on procuring fishing rights from DPRK:
- additional prohibitions in relation to the export of crude oil to DPRK:
- modified restrictions in relation to the export of specified petroleum products to DPRK:
- modified restrictions in relation to the registration of ships:
- modified restrictions in relation to providing insurance or reinsurance for certain ships:
- modified restrictions on obtaining a work authorisation required for a DPRK national to work in New Zealand:
- an extension to the scope of the definition of specified persons in regulation 48(1) of the principal regulations. These specified persons may be subject to an order for deportation under regulation 49 of the principal regulations.

These regulations also make a few amendments to the principal regulations that are consequential upon other amendments made by these regulations.

*Amendments immediately following commencement of Part 4 of Schedule 9 of
Customs and Excise Act 2018*

The Customs and Excise Act 2018 will commence (*see* section 2(4) of that Act) after the commencement of these regulations (except regulations 20 to 22). That Act (under Part 4 of Schedule 9) makes some consequential amendments to the principal regulations by replacing references to the Customs and Excise Act 1996 and its provisions with references to the Customs and Excise Act 2018 and its provisions.

Regulations 20 to 22 of these regulations come into force immediately after the commencement of Part 4 of Schedule 9 of the Customs and Excise Act 2018. The purpose of *regulations 20 to 22* is to ensure that the substantive content of regulations 15, 20, and 21 of the principal regulations is restored to the form as effected under *regulation*

7 of these regulations, updated with the references to the Customs and Excise Act 2018 and its provisions.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 31 May 2018.

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