

2017 No. 320

OVERSEAS TERRITORIES

**The Democratic People’s Republic of Korea (Sanctions)
(Overseas Territories) (Amendment) Order 2017**

Made - - - - - *8th March 2017*

Laid before Parliament *15th March 2017*

Coming into force - - - *5th April 2017*

At the Court at Buckingham Palace, the 8th day of March 2017

Present,

The Queen’s Most Excellent Majesty in Council

Under article 41 of the Charter of the United Nations, the Security Council of the United Nations has, by resolution 2321 adopted on 30th November 2016 called upon Her Majesty’s Government in the United Kingdom to apply certain measures to give effect to decisions of the Council in relation to the Democratic People’s Republic of Korea:

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), section 112 of the Saint Helena Act 1833(b), the British Settlements Acts 1887 and 1945(c), and all of the other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) (Amendment) Order 2017 and comes into force on 5th April 2017.

(2) In this Order, “the principal Order” means the Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) Order 2012(d).

(3) This Order extends to the territories listed in Schedule 1 to the principal Order.

Amendment of the principal Order

2. The principal Order is amended in accordance with articles 3 to 16.

3. In article 3(1)(e)—

(a) 1946 c.45.

(b) 1833 c.85.

(c) 1887 c.54 and 1945 c.7.

(d) S.I. 2012/3066, amended by S.I. 2013/1718, S.I. 2013/2599, S.I. 2016/630, S.I. 2016/769 and S.I. 2016/991.

(e) Article 3(1) was amended by S.I. 2013/1718, S.I. 2016/630, S.I. 2016/769 and S.I. 2016/991.

- (a) in the appropriate places, insert—
- “the Committee” means the Committee of the United Nations Security Council established under paragraph 12 of the United Nations Security Council resolution 1718 adopted on 14th October 2006(a);”,
- “copper, nickel, silver and zinc” means items listed in Annex Ih to the Council Regulation;”,
- “designated vessel” means a vessel designated by the Committee pursuant to paragraph 12 of resolution 2321 (2016);”,
- “helicopters and vessels” means items listed in Annex IIIb to the Council Regulation;”,
- “real property” means land, buildings and parts thereof, which are located outside the territory of North Korea;”,
- “resolution 2321 (2016)” means United Nations Security Council resolution 2321 adopted on 30th November 2016(b);”, and
- “statues” means items listed in Annex IIIa to the Council Regulation;”;
- (b) for the definition of “financing or financial assistance”, substitute—
- “financing or financial assistance” includes grants, loans, export credit insurance, insurance and reinsurance;”; and
- (c) in the definition of “restricted goods”, insert—
- (d) other goods and technology listed in Annex III to resolution 2321 (2016); and
- (e) any other item listed in a conventional arms dual-use list adopted pursuant to paragraph 7 of resolution 2321 (2016).”.

4. In article 7(c)—

- (a) in the heading, for “and petroleum products” substitute “petroleum products, copper, nickel, silver and zinc, statues, and helicopters and vessels”;
- (b) in paragraph (2), for “or aviation fuel” substitute “, aviation fuel, or helicopters and vessels”;
- (c) in paragraph (3), after sub-paragraph (d), insert—
- (e) copper, nickel, silver and zinc; or
- (f) statues.”;
- (d) in paragraph (4), for “or aviation fuel” substitute “, aviation fuel, or helicopters and vessels”;
- (e) in paragraph (5), for “or gold and ores,” substitute “, gold and ores, copper, nickel, silver and zinc, or statues,”.

5. In article 10E(d), omit paragraphs (3) to (5).

6. In article 10J(e)—

- (a) after sub-paragraph (1)(e), insert—
- “(f) is a designated vessel that the Committee has required be denied access to the ports of United Nations Member States.”; and
- (b) for sub-paragraph (2), substitute—
- “(2) Paragraph (1) does not apply if—

(a) S/RES/1718 (2006).
 (b) S/RES/2321 (2016).
 (c) Article 7 was amended by S.I. 2016/630 and S.I. 2016/769.
 (d) Article 10E was inserted by S.I. 2016/630.
 (e) Article 10J was inserted by S.I. 2016/769 and amended by S.I. 2016/991.

- (a) access to a port is needed by the vessel in the case of emergency;
- (b) in the case of a vessel referred to in paragraph (1)(a) to (e), the vessel is coming into port for inspection; or
- (c) the vessel is returning to its port of origin.”.

7. After Article 10J, insert—

“10JA.—(1) When so required by the Committee, the Governor may de-flag a designated vessel flagged to the territory.

(2) When so required by the Committee, the Governor may direct the master of a designated vessel flagged to the territory to take that vessel to a port identified by the Committee, such direction to be given in co-ordination with the port State.

(3) A person (“P”) commits an offence if P fails to comply with a direction given by the Governor under paragraph (2).”.

8. In article 10K(a)—

- (a) for the heading, substitute—

“Offences related to the leasing, chartering, insuring and registering of vessels and the provision of crew services”; and

- (b) for paragraph (4), substitute—

“(4) A person (“P”) commits an offence if P provides insurance or re-insurance services to a vessel that P knows, or has reasonable cause to suspect, is owned, controlled, or operated by North Korea.

(5) Paragraphs (1) and (4) are subject to articles 11 and 12.”.

9. After article 10K, insert—

“Procurement of vessel or aircraft crew services from North Korea

10KA. A person (“P”) commits an offence if P knowingly procures vessel or aircraft crew services from North Korea.”.

10. After article 10P(b), insert—

“Provision of financing or financial assistance for trade with North Korea

10Q.—(1) A person (“P”) commits an offence if P knowingly provides financing or financial assistance for trade with North Korea, including the granting of guarantees, to any person involved in such trade.

(2) Paragraph (1) is subject to articles 11 and 12.

Provision of bank accounts

10R.—(1) A person (“P”) commits an offence if P provides a new bank account to, or fails to close within 90 days of 5th April 2017 an existing bank account of, a North Korean diplomatic mission, consular post, or one of their members.

(2) Paragraph (1) is subject to articles 11 and 12.

(a) Article 10K was inserted by S.I. 2016/630.
 (b) Article 10P was inserted by S.I. 2016/769.

Use of real property

10S.—(1) A person (“P”) commits an offence if P leases or otherwise makes available, directly or indirectly, real property to the Government of North Korea, where P knows or has reasonable cause to suspect that the property is to be used for any purpose other than the official purposes of a diplomatic mission or consular post.

(2) A person (“P”) commits an offence if P leases real property from the Government of North Korea.

(3) A person (“P”) commits an offence if P engages in any activity that P knows or has reasonable cause to suspect is linked to the use of real property that the Government of North Korea owns, leases or is otherwise entitled to use.

(4) Paragraph (3) does not apply to the provision of goods and services which are:

- (a) essential for the functioning of a diplomatic mission or consular post; and
- (b) cannot be used to generate income or profit directly or indirectly for the Government of North Korea.”.

11. In article 11(a)—

(a) in paragraphs (1) and (2), for “article 4, 7, 7A, 8, 9, 10J, 10K(1) or 10P” substitute “article 4, 7, 7A, 8, 9, 10J, 10K(1) and (4), 10P, 10Q or 10R”; and

(b) in paragraph 3—

(i) after sub-paragraph (g)(ii), insert—

“(iii) the purchase, import or transfer will not bring the known total exports of coal from North Korea to United Nations Member States to a value or weight exceeding the maximum value or weight specified in paragraph 26(b) of resolution 2321 (2016),

(iv) the purchase, import or transfer does not involve any person associated with North Korea’s nuclear or ballistic missile programmes or other activities prohibited by this Order, including designated persons or entities owned or controlled by them, directly or indirectly, or persons assisting in the evasion of sanctions, and

(v) the purchase, import or transfer is exclusively for livelihood purposes of North Korean nationals and unrelated to generating revenue for North Korea’s nuclear or ballistic missile programmes or other activities prohibited by this Order.”,

(ii) for sub-paragraph (m), substitute—

“(m)the leasing or chartering of vessels or aircraft or the provision of crew services;”,
and

(iii) at the end of sub-paragraph (t), insert—

“(u) the provision of insurance or reinsurance services to vessels owned, controlled, or operated by North Korea, provided that the Governor is satisfied the vessel is engaged in activities exclusively for humanitarian purposes, or exclusively for livelihood purposes and will not be used by North Korean persons to generate revenue;

(v) the opening or retaining of one bank account per North Korean diplomatic mission, consular post, or one of their members, provided that the mission or post is hosted in the United Kingdom and does not hold any other bank account in the territory of the European Union or any of the Territories listed in Schedule 1;

(a) As amended by S.I. 2016/630 and S.I. 2016/769.

(w) any activity that the Governor is satisfied is necessary to facilitate the work of international and non-governmental organisations carrying out assistance and relief activities in North Korea for the benefit of the civilian population in North Korea; and

(x) access to a port that the Committee has directed the vessel to enter.”.

12. In article 12(a) for “article 4, 7, 7A, 8, 9, 10J, 10K(1) and 10P”, substitute “article 4, 7, 7A, 8, 9, 10J, 10K(1) and (4), 10P, 10Q or 10R”.

13. In article 16(a)(b), for “article 4, 7 or 7A to 10P”, substitute “article 4, 7 or 7A to 10S”.

14. In article 17(c)—

(a) in paragraph (2), after “10K,”, insert “10KA,” and after “10P(2),” insert “10Q, 10R, 10S”; and

(b) in paragraph (3), after “under” insert “article 10JA(3) or”.

15. In Schedule 2(d)—

(a) for the heading of paragraph 2, substitute—

“Requirement for declaration as to carriage of restricted goods, luxury goods, gold and ores, coal, iron and iron ore, aviation fuel, petroleum products, copper, nickel, silver and zinc, helicopters and vessels, or statues: power to search persons”;

(b) in paragraphs 2(1)(a) and (3), 3(4) and (5), for “or petroleum products” substitute “, petroleum products, copper, nickel, silver and zinc, helicopters and vessels, or statues”.

16. In Schedule 3(e),—

(a) in paragraph 1(3), after “10K,”, insert “10KA,” and after “10P(2),” insert “10Q, 10R, 10S,”; and

(b) in paragraph 1(4) after “under”, insert “article 10JA(3),”.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

United Nations and European Union sanctions against the Democratic People’s Republic of Korea are given effect in specified Overseas Territories in the Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) Order 2012 (S.I. 2012/3066), as amended. This Order makes amendments to implement sanctions most recently adopted by the United Nations Security Council in resolution 2321 (2016) and reflected in Council Decision (CFSP) 2017/345 of 27 February 2017 amending Council Decision 2016/849/CFSP and Council Regulation 2017/330 amending Council Regulation (EC) No 329/2007.

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- (a) As amended by S.I. 2016/769.
(b) As amended by S.I. 2016/769.
(c) As amended by S.I. 2016/630 and S.I. 2016/769.
(d) As amended by S.I. 2016/630 and S.I. 2016/769.
(e) As amended by S.I. 2016/630 and S.I. 2016/769.