

EXPLANATORY MEMORANDUM TO
THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA (SANCTIONS)
(OVERSEAS TERRITORIES) (AMENDMENT) (NO. 2) ORDER 2016

2016 No. 769

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This Order reflects and gives appropriate effect in specified Overseas Territories to additional sanctions measures adopted by the European Union in Council Decision (CFSP) 2016/849 and Council Regulation (EC) No 329/2007, most recently amended by Council Regulation (EU) 2016/841 of 27th May 2016. That Council Decision and Council Regulation (EU) 2016/841 also make minor changes to the implementation by the European Union of the sanctions recently adopted by the United Nations Security Council in resolution 2270 (2016). These UN sanctions were given effect in specified Overseas Territories in the Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) (Amendment) Order 2016 (S.I. 2016/630) and this Order gives effect to those minor changes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This Order corrects a defect in article 11(3)(f) of the Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) Order 2012 (S.I. 2012/3066), as recently amended by the Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) (Amendment) Order 2016 (S.I. 2016/630). There was an incorrect reference to the “principal Order”. This Order substitutes a new sub-paragraph which removes this reference and makes further changes.

Other matters of interest to the House of Commons

- 3.2 As this instrument is not subject to any Parliamentary procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise.

4. Legislative Context

- 4.1 This Order is made in exercise of statutory powers under the United Nations Act 1946, the Saint Helena Act 1833, the British Settlements Acts 1887 and 1945, and the legislative power of the Royal Prerogative (in the absence of statutory powers).
- 4.2 The statutory and prerogative powers to legislate for the Overseas Territories, to implement sanctions measures, are applicable to the Overseas Territories as follows:
- i. the United Nations Act 1946 applies to all Overseas Territories;
 - ii. the Saint Helena Act 1833 applies to St Helena;
 - iii. the British Settlements Acts 1887 and 1945 are applicable to Ascension and Tristan da Cunha, British Antarctic Territory, the Falkland Islands, Pitcairn

(including Henderson, Ducie and Oeno Islands), and South Georgia and the South Sandwich islands);

- iv. the prerogative legislative power is applicable to Anguilla, British Indian Ocean Territory, Cayman Islands, Montserrat, the Sovereign Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and the Virgin Islands.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, the Falkland Islands, Montserrat, Pitcairn (including Henderson, Ducie and Oeno Islands), St Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia, the Turks and Caicos Islands and the Virgin Islands (“the Territories”).
- 5.2 The application of this instrument is the Territories and:
 - a) any person elsewhere who is a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in a Territory;
 - b) a body incorporated or constituted under the law of a Territory; and
 - c) any person onboard a ship or aircraft that is registered in a Territory.

6. European Convention on Human Rights

- 6.1 As the instrument is not subject to parliamentary procedure, no statement is required.

7. Policy background

- 7.1 In response to the nuclear test on 6 January 2016 and satellite launch using ballistic missile technology on 7 February 2016, the United Nations Security Council adopted Security Council Resolution 2270 (2016) (“UNSCR 2270”), which imposed further sanctions measures against the DPRK. This was the DPRK’s fourth nuclear test since 2006 and was a serious violation of a number of existing UNSCRs.
- 7.2 UNSCR 2270 expands and strengthens the sanctions against DPRK. These sanctions were given effect in the specified Overseas Territories in The Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) Order 2012 (S.I. 2012/3066), as most recently amended by The Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) (Amendment) Order 2016, (S.I. 2016/630).
- 7.3 Since the adoption of the UNSCR 2270 (2016), the DPRK has attempted ballistic missile launches. The European Union made small amendments to its implementation of the additional sanctions imposed by UNSCR 2270 and imposed further additional sanctions measures in Council Decision (CFSP) 2016/849 and Council Regulation (EC) No 329/2007, as most recently amended by Council Regulation (EU) 2016/841 of 27th May 2016. These additional sanctions measures include those related to investment in commercial activity or joint ventures with, and financing and provision of investment services to, certain North Korean persons. It also prevents certain transactions with North Korean persons and transfers of funds to and from North Korea.
- 7.4 This Order gives effect to the amendments and the additional sanctions in the Overseas Territories.

8. Consultation outcome

8.1 The Overseas Territories have been consulted on the Order in draft.

9. Guidance

9.1 No guidance will be issued.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies in the United Kingdom.

10.2 There is no impact on the public sector in the United Kingdom.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses in the United Kingdom.

12. Monitoring & review

12.1 United Nations sanctions are monitored and reviewed by the United Nations Security Council, and European Union measures are monitored and reviewed by the Member States of the European Union. This Order will be reviewed and amended as appropriate following any further modifications to the sanctions regime by the United Nations and European Union.

13. Contact

13.1 Nicola Smith at the Foreign and Commonwealth Office can answer any queries regarding the instrument. Telephone: 020 7008 1672. Email: nicola.smith@fco.gov.uk