

EXPLANATORY MEMORANDUM TO
THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (EUROPEAN UNION
FINANCIAL SANCTIONS) REGULATIONS 2017

2017 No. 218

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These Regulations will consolidate and replace the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2013 ('the 2013 Regulations'). They provide for enforcement of the Council Regulation (EC) No 329/2007 dated 27th March 2007 ('the Council Regulation'), which has been amended a number of times. These new Regulations ('the 2017 Regulations') consolidate the previous Regulations and enable enforcement actions to be taken under UK law in respect of some additional financial sanctions measures that were added to the Council Regulation by Council Regulation (EU) 2017/330 on 27th February 2017.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These Regulations have been laid before Parliament less than 21 days before they come into force. This is necessary to ensure that HM Treasury is able to enforce the additional financial sanctions measures which will come into force on 1st March 2017. It was not possible to finalise or lay these Regulations before today as until 28th February 2017, when Council Regulation (EU) 2017/330 was published in the Official Journal, it was not certain what the additional financial sanctions measures would be. If these Regulations were not to come into force until 21 days after having been laid before Parliament, persons within the UK who breach the additional measures would not face enforcement consequences for such breaches. Given that financial sanctions are a matter of international peace and security, and that the UK has obligations under EU law and the UN Charter to put them in place and enforce them, it is necessary to do so as swiftly as possible.
- 3.2 In the Joint Committee on Statutory Instruments' Seventh Report of Session 2016–17, the Committee invited HM Treasury to reconsider its approach to the repetition of EU provisions if the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2013 came to be revoked and replaced. HM Treasury wrote to the Clerk of the Joint Committee on Statutory Instruments on 21 December 2016 in response to those comments explaining why HM Treasury intends to continue with its approach in relation to financial sanctions Regulations.

Other matters of interest to the House of Commons

- 3.3 As these Regulations are subject to the negative procedure and have not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 These Regulations have been made under section 2(2) of the European Communities Act 1972, in order to consolidate the multiple amendments made to the previous set of Regulations and to ensure that the enforcement provisions apply to the further prohibitions introduced by Council Regulation (EU) No 2017/330.

5. Extent and Territorial Application

- 5.1 These Regulations extend to the whole of the United Kingdom.
- 5.2 These Regulations apply to the whole of the United Kingdom, and outside the United Kingdom to any UK national or any body incorporated in the United Kingdom.

6. European Convention on Human Rights

- 6.1 As these Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The Democratic People's Republic of Korea ('DPRK') is the subject of sanctions, primarily in response to their involvement in nuclear proliferation and the development of ballistic missiles, imposed by the Security Council of the United Nations. These are given effect in the United Kingdom by the Council Regulation.
- 7.2 In response to DPRK's 5th nuclear missile test on 9 September 2016, the United Nations Security Council adopted a further resolution (UNSCR 2321) on 30 November 2016 imposing additional sanctions on DPRK. These additional measures were incorporated into the Council Regulation by Council Regulation (EU) No 2017/330, which will take effect on 1st March 2017.
- 7.3 The Council Regulation obliges the UK to put enforcement provisions in place for breaches of the financial sanctions contained in that Regulation. Enforcement of the Council Regulation was provided for by the 2013 Regulations and instead of amending it for a fourth time, we are replacing it with new Regulations. These new Regulations include enforcement provisions relating to the further financial sanctions imposed by the amended Council Regulation. In the absence of these updates, persons within the UK would face no enforcement consequences should they breach the further financial sanctions.

Consolidation

- 7.4 As explained in paragraph 7.3, we are revoking the previous set of Regulations and replacing them with a new consolidated version which incorporates all of the amendments made subsequently to them as well as the further financial sanctions.

8. Consultation outcome

- 8.1 No consultation has been carried out in relation to these Regulations, which provide for enforcement of financial sanctions that have been themselves imposed by the Council Regulation (as amended).

9. Guidance

- 9.1 Guidance on the asset freezing and other financial sanctions measures in relation to North Korea is available on the Treasury's website (<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>). The Office of Financial Sanctions Implementation, within the Treasury, operate a free subscription email service alerting subscribers to changes to the asset freezing regime, and to other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing and financial sanctions regimes. A notice explaining the Council Regulation is available on the Treasury website and will be emailed to subscribers.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is negligible, because these Regulations do not impose requirements themselves, but only put in place enforcement provisions in relation to activities which are prohibited by the directly effective Council Regulation.
- 10.2 The impact on the public sector is also negligible.
- 10.3 An Impact Assessment has not been prepared for these Regulations, because any impact results from the Council Regulation rather than these Regulations which only provide for enforcement powers.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the Treasury work with the financial sector on the requirements for complying with the asset freezing and financial sanctions measures set out in the Council Regulation. The Treasury have provided detailed guidance to assist business in complying with these measures.

12. Monitoring & review

- 12.1 The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breaches of the restrictions imposed by the Council Regulation if it is amended or repealed.
- 12.2 It is therefore not appropriate in the circumstances to make provision for further periodic review as contemplated in ss.28-32 of the Small Business Enterprise and Employment Act 2015.

13. Contact

- 13.1 The Office of Financial Sanctions Implementation at the Treasury (email: OFSI@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.