

EXPLANATORY MEMORANDUM TO
THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA (SANCTIONS)
(OVERSEAS TERRITORIES) (AMENDMENT) (No. 2) ORDER 2017

2017 No. 780

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 The Order amends the Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) Order 2012 (S.I. 2012/3066) (“the principal Order”) to reflect new measures in the EU autonomous sanctions regime against the Democratic People’s Republic of Korea (“DPRK”). The measures expand prohibitions on investments in DPRK to new sectors, namely the conventional arms related industry, metallurgy and metalworking and aerospace. It also contains new prohibitions in relation to the provision of computer and related services and services incidental to mining and manufacturing in the chemical, mining and refining industry.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 There are no matters of special interest to the Joint Committee on Statutory Instruments.

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 Saint Helena Act 1833, the British Settlements Acts 1887 and 1945, and the legislative power of the Royal Prerogative.

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 Saint Helena Act 1833 applies to St Helena;
- (ii) 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);
- (iii) 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 and application of this Order is the same as that of the Principal Order: 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

What is being done and why

- 7.1 The European Union (EU) and United Nations sanctions regimes against DPRK are implemented in the EU by Council Regulation (EU) No 329/2007 (as amended) (“the Council Regulation”), and Council Decision 2016/849/CFSP (as amended) (“the Council Decision”) and are given effect in the Territories in the principal Order.
- 7.2 In view of the nuclear test conducted by DPRK on 9 September 2016, which was considered to be a grave threat to international peace and security, the EU has decided to impose further EU autonomous restrictive measures. These include restrictions on establishing a joint venture with or the taking of an ownership interest in persons engaged in activities in the sectors of conventional arms, metallurgy, metalworking and aerospace; and restrictions on the provision of services incidental to mining and to manufacturing in the chemical, mining and refining industry, and computer and related services.
- 7.3 This Order gives effect to these restrictions in the Territories and makes related amendments to offences and licensing provisions.

Consolidation

- 7.4 The Foreign and Commonwealth Office will keep the need for consolidation under review.

8. Consultation outcome

- 8.1 The 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 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 European Union.

13. Contact

- 13.1 Molly Mulready-Jones at the Foreign and Commonwealth Office (Telephone: 020 7008 3061 or email: molly.mulready-jones@fco.gov.uk) can answer any queries regarding the instrument.