

EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (NORTH KOREA SANCTIONS) ORDER 2018
2018 No. 200

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for International Trade and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 To provide for enforcement of and penalties for breach of European Union wide trade sanctions regimes against North Korea. The instrument also makes provision for the grant of licences permitting, in accordance with that regime, certain trade activities which would otherwise be prohibited under it.
- 2.2 The Export Control (North Korea Sanctions) Order 2018 (the “Order”) provides for the enforcement of trade restrictions in view of the situation in North Korea set out in Council Regulation (EU) No 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People’s Republic of North Korea and repealing Regulation (EC) No 329/2007 (OJ L No. 224, 31.08.2017, p.1) (“the North Korea Sanctions Regulation”).
- 2.3 The Order also revokes articles 4 to 16 of the Export Control (North Korea Sanctions and Iran, Ivory Coast and Syria Amendment) Order 2017.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has 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 The Council of the European Union adopted new restrictive measures against North Korea in the North Korea Sanctions Regulation which followed Council Decision (CFSP) 2017/1512 of 30 August 2017 (OJ L No. 224 31.8.2017, p.118).
- 4.2 The North Korea Sanctions Regulation reflects European Union concern about North Korean nuclear and ballistic missile programs.
- 4.3 EU sanctions were first imposed on North Korea in 2006. The EU joined the UN in imposing measures in response to a North Korean declaration that they had tested a nuclear device. The EU sanctions went beyond UNSC Resolution 1718 (2006) in extending its arms embargo to include the more extensive EU Common List of Military Equipment.

- 4.4 Further sanctions were imposed in June 2009 in response to nuclear tests and following a North Korean ballistic missile test in December 2012.
- 4.5 The North Korea Sanctions Regulation repealed and replaced the previous EU Sanctions regime that was in place under, the much amended, Council Regulation (EC) No 329/2007 of 27 March concerning restrictive measures against the Democratic People's Republic of Korea (OJ L No 88, 29.3.2007, p.1).
- 4.6 The North Korea Sanctions Regulation has been amended by several times. It was mostly recently amended by Council Implementing Regulation (EU) No 2018/87 of 22 January 2018 (OJ No. L161, 22.01.2018, p.1). Copies of all amending instruments are available on the European Union's website: www.europa.eu.
- 4.7 The North Korea Sanctions Regulation, as amended, is directly applicable in the UK. The UK has an obligation to establish an enforcement regime for the Regulation. This is done through the Order which creates offences for behaviours prohibited by the Regulation and penalties for those offences.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the whole of the United Kingdom.
- 5.2 The territorial application of this instrument is the whole of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 In view of North Korea's continued testing of nuclear devices and ballistic missiles, Council Decision of 30 August 2017 amended a 2016 Decision (CFSP) 2016/849 to impose further restrictive measures including:
- increased financial sanctions;
 - additional measures to restrict the movement of North Korean vessels and cargo;
 - changes to the lists of designated persons;
 - an extended arms embargo;
 - extended import and export restrictions.
- 7.2 Following on from the Decision, a revised sanctions regime was set out in the North Korea Sanctions Regulation. The sanctions regime has been updated and amended by the EU. This Order ensures that updated and amended regime can be enforced in the United Kingdom.

Consolidation

- 7.3 None.

8. Consultation outcome

8.1 The Order provides for the technical implementation of a directly applicable EU Regulation. No consultation was necessary.

9. Guidance

9.1 A Notice to Exporters was published on 22 February 2017 <https://www.gov.uk/government/publications/notice-to-exporters-201703-north-korea-export-control-order-amended/notice-to-exporters-201703-north-korea-order-amended> explaining the latest changes to the North Korea Regulation.

9.2 A new Notice to Exporters will be published once enforcement and penalties for the latest North Korea trade sanctions for prohibited activities are in place.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal. North Korea is not a major trading partner of the United Kingdom. Sanctions against North Korea have been in place for over a decade and the fact that a sanctions regime exists is widely understood. There may be a similar small impact on charities or voluntary bodies. Business must apply for authorisation (an export licence) for the provision of the activities which are otherwise prohibited by the North Korea Sanctions Regulation (including those referred to in paragraph 7.1 above).

10.2 There is no impact on the public sector.

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

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 The Order provides for enforcement and penalties of EU trade sanctions regulations.

11.3 The penalties are only applied if a business deliberately breaches sanctions.

12. Monitoring & review

12.1 The Department will monitor developments in North Korea, the actions taken by the EU, and the impact of the Order and give effect to any necessary changes if the sanctions are reviewed.

12.2 The impact of the Order is required to be reviewed within five years from the date on which it comes into force.

13. Contact

13.1 Peter Monday at the Department for International Trade, Tel: 020 7215 8810 or email: peter.monday@trade.gsi.gov.uk can answer any queries regarding the instrument.