

EXPLANATORY MEMORANDUM TO
THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA (SANCTIONS)
(OVERSEAS TERRITORIES) (AMENDMENT) (No. 4) ORDER 2017

2017 No. 1277

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 gives effect to certain changes to the sanctions regime against North Korea as provided for in United Nations Security Council resolution 2371 of 5th August 2017 (“UNSCR 2371”) and United Nations Security Council resolution 2375 of 11 September 2017 (“UNSCR 2375”). The sanctions are given effect in the European Union by Council Decision (CFSP) 2017/1838 of 10 October 2017 (amending Council Decision 2016/849/CFSP) and Council Regulation 2017/1836 of 10 October 2017 (amending Council Regulation (EU) 2017/1509). These UN sanctions are given effect in specified Overseas Territories in the Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) Order 2012 (S.I. 2012/3066) (“the principal Order”). This Order amends the principal Order.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This Order comes into force the day after it is laid before Parliament, in a departure from the 21 day convention. This is because UNSCR 2375 contain provisions which are tied to a specific period of time after the resolution was adopted; namely, in paragraph 18, that States shall close certain existing joint ventures or cooperative entities within 120 days, unless the joint venture or cooperative entity has been approved by the relevant sanctions committee. This means that if the 21 day convention was followed here, the provisions of this Order would come into force on 10 January 2018, which is two days after the deadline for States to ensure compliance with this international obligation.

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 at this stage.

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 this Order is not subject to Parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 In response to the ballistic missile tests by North Korea on 3 and 28 July 2017, which were serious violations of a number of previous United Nations Security Council regulations, the United Nations Security Council imposed further sanctions on North Korea on 11 September in UNSCR 2375.
- 7.2 UNSCR 2375 includes restrictions on exports to North Korea of condensates and natural gas liquids, refined petroleum products, and crude oil, and restrictions on the imports from North Korea of textiles.
- 7.3 UNSCR 2375 also includes restrictions on ship-to-ship transfers to or from any ship registered in North Korea of any goods or items that are being sold, supplied, transferred, or exported to or from North Korea.
- 7.4 UNSCR 2375 includes restrictions on the establishment, maintenance, and operation of certain cooperative entities, and includes new restrictions on the maintenance and operation of joint entities.
- 7.5 This Order gives effect to these new sanctions measures in the Overseas Territories.

Consolidation

- 7.6 The Foreign and Commonwealth Office will keep the need for consolidation of the principal Order under review.

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.
- 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. This Order will be reviewed and amended as appropriate following any further modifications to the sanctions regime by the United Nations.

13. Contact

- 13.1 Ben Brzezicki at the Foreign and Commonwealth Office can answer any queries regarding the instrument. Telephone: 020 7008 0460. Email: Ben.Brzezicki@fco.gov.uk