

## STATUTORY INSTRUMENTS

# 2019 No. 411

## The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019

### PART 1

#### General

#### Citation and commencement

1.—(1) These Regulations may be cited as the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019.

(2) These Regulations come into force in accordance with regulations made by the Secretary of State under section 56 of the Act.

#### Commencement Information

- I1** Reg. 1 not in force at made date, see [reg. 1\(2\)](#)  
**I2** [Reg. 1](#) in force at 25.3.2019 by [S.I. 2019/627](#), [reg. 7\(1\)\(a\)](#)

#### Interpretation

2.—(1) In these Regulations—

“the Act” means the Sanctions and Anti-Money Laundering Act 2018;

“aircraft licence” means a licence under regulation 91;

“the armed forces of the DPRK” means the Korean People's Army, also known as the Korean People's Military, and includes each of its branches;

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable (but see Schedule 1 for the meaning of that term in that Schedule);

a “banned programme” means any activity relating to banned weapons;

“banned weapons” means—

- (a) nuclear, biological or chemical weapons,
- (b) other weapons of mass destruction, or
- (c) ballistic missiles;

“brokering service” means any service to secure, or otherwise in relation to, an arrangement, including but not limited to—

- (a) the selection or introduction of persons as parties or potential parties to the arrangement,
- (b) the negotiation of the arrangement,
- (c) the facilitation of anything that enables the arrangement to be entered into, and

- (d) the provision of any assistance that in any way promotes or facilitates the arrangement;
- “CEMA” means the Customs and Excise Management Act 1979 <sup>M1</sup>;
- “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;
- “the Committee” means the Committee of the Security Council established by paragraph 12 of resolution 1718;
- “conduct” includes acts and omissions;
- “consular post” has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24 April 1963 <sup>M2</sup>, and any reference to the functions of a consular post is to be read in accordance with that Convention;
- “diplomatic mission”, and any reference to the functions of a diplomatic mission, is to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961 <sup>M3</sup>;
- “document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;
- “the DPRK” means the Democratic People's Republic of Korea;
- “the Dual-Use Regulation” means Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;
- “the EU DPRK Regulation” means Council Regulation (EU) No 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007<sup>M4</sup>, as it has effect in EU law;
- “the Government of the DPRK” includes its public bodies, corporations or agencies;
- “humanitarian assistance activity” includes the work of international and non-governmental organisations carrying out relief activities in the DPRK for the benefit of the civilian population there;
- “member of a diplomatic mission” is to be read in accordance with the meaning of “members of the mission” in the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961;
- “member of a consular post” is to be read in accordance with the meaning of “members of the consular post” in the Vienna Convention on Consular Relations done at Vienna on 24 April 1963;
- a “non-UN designated person” means a person—
- (a) who is designated under regulation 5 for the purposes of regulations 13 to 17 (asset-freeze etc.), and
  - (b) whose designation, in the opinion of the Secretary of State, is not required by paragraph 32 of resolution 2270 or a provision mentioned in regulation 4(4);
- “resolution 1718” means resolution 1718 (2006) adopted by the Security Council on 14 October 2006;
- “resolution 1874” means resolution 1874 (2009) adopted by the Security Council on 12 June 2009;
- “resolution 2087” means resolution 2087 (2013) adopted by the Security Council on 22 January 2013;
- “resolution 2094” means resolution 2094 (2013) adopted by the Security Council on 7 March 2013;

“resolution 2270” means resolution 2270 (2016) adopted by the Security Council on 2 March 2016;

“resolution 2321” means resolution 2321 (2016) adopted by the Security Council on 30 November 2016;

“resolution 2356” means resolution 2356 (2017) adopted by the Security Council on 2 June 2017;

“resolution 2371” means resolution 2371 (2017) adopted by the Security Council on 5 August 2017;

“resolution 2375” means resolution 2375 (2017) adopted by the Security Council on 11 September 2017;

“resolution 2397” means resolution 2397 (2017), adopted by the Security Council on 22 December 2017;

“ship licence” means a licence under regulation 92;

“trade licence” means a licence under regulation 90;

“transport licence” means a ship licence or an aircraft licence;

“Treasury direction” means a direction under regulation 89;

“Treasury licence” means a licence under regulation 88(1);

“United Kingdom person” has the same meaning as in section 21 of the Act.

(2) For the purposes of regulation 29 (ships: insurance services), Part 6 (Trade), Part 7 (Aircraft) and, subject to paragraph (4), Part 8 (Ships), a person is to be regarded as “connected with” the DPRK if the person is—

- (a) an individual who is, or an association or combination of individuals who are, ordinarily resident in the DPRK,
- (b) an individual who is, or an association or combination of individuals who are, located in the DPRK,
- (c) a person, other than an individual, which is incorporated or constituted under the law of the DPRK, or
- (d) a person, other than an individual, which is domiciled in the DPRK.

(3) For the purposes of regulations 58 (leasing or chartering of ships and aircraft) and 59(1) (provision of crew services for ships and aircraft), a person who does not fall within paragraph (2) (a) to (d) is also to be regarded as “connected with” the DPRK if that person—

- (a) is acting on behalf of or at the direction of the Government of the DPRK, the armed forces of the DPRK, or any other person falling within any of sub-paragraphs (a) to (d) of paragraph (2), or
- (b) is a person, other than an individual, which is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person falling within any of sub-paragraphs (a) to (d) of paragraph (2).

(4) For the purposes of regulation 71(5)(c) (reference to ship crewed by persons connected with the DPRK), a person is to be regarded as “connected with” the DPRK if the person is an individual who is—

- (a) a national of the DPRK, or
- (b) ordinarily resident in the DPRK.

### Commencement Information

- I3** Reg. 2 not in force at made date, see [reg. 1\(2\)](#)  
**I4** [Reg. 2](#) in force at 25.3.2019 by [S.I. 2019/627](#), [reg. 7\(1\)\(b\)](#)

### Marginal Citations

- M1** 1979 c.2. Amendments have been made to this Act and are cited, where relevant, in respect of the applicable regulations.  
**M2** United Nations Treaty Series, vol. 596, p.261.  
**M3** United Nations Treaty Series, vol. 500, p.95.  
**M4** OJ L 224, 31.8.2017, p. 1.

## Application of prohibitions and requirements outside the United Kingdom

3.—(1) A United Kingdom person may contravene a relevant prohibition by conduct wholly or partly outside the United Kingdom.

(2) Any person may contravene a relevant prohibition, or a prohibition under regulation 65(1) (a) (overflight of aircraft) or a prohibition imposed by a condition of an aircraft licence by conduct in the territorial sea.

(3) In this regulation a “relevant prohibition” means any prohibition imposed by—

- (a) regulation 9(2) (confidential information),
- (b) Part 4 (Finance),
- (c) Part 6 (Trade),
- (d) regulation [F166(6)] (non-disclosure),
- (e) Part 8 (Ships),
- (f) regulation 101(2) (proliferation financing), or
- (g) a condition of a Treasury licence, a Treasury direction, a trade licence or a ship licence.

(4) A United Kingdom person may comply, or fail to comply, with a relevant requirement by conduct wholly or partly outside the United Kingdom.

(5) Any person may comply, or fail to comply, with a relevant requirement, a requirement imposed by a direction under regulation 65(4) (direction by air traffic control to operator or pilot of DPRK aircraft) or 73 (movement of ships) or a requirement imposed by a condition of an aircraft licence, by conduct in the territorial sea.

(6) In this regulation a “relevant requirement” means any requirement imposed—

- (a) by Chapter 2 of Part 4 (Investment, financial services and financial markets),
- (b) by or under Part 10 (Information and records), or by reason of a request made under a power conferred by that Part, or
- (c) by a condition of a Treasury licence, a Treasury direction, a trade licence or a ship licence.

(7) Nothing in this regulation is to be taken to prevent a relevant prohibition or a relevant requirement from applying to conduct (by any person) in the United Kingdom.

### Textual Amendments

- F1** Word in [reg. 3\(3\)\(d\)](#) substituted (31.12.2020 immediately after IP completion day) by [The Sanctions \(EU Exit\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/591\)](#), [regs. 1\(2\)](#), [2\(2\)](#); [S.I. 2020/1514](#), [reg. 5](#)

### Commencement Information

**I5** Reg. 3 not in force at made date, see reg. 1(2)

**I6** Reg. 3 in force at 31.12.2020 by S.I. 2019/627, **reg. 7(2)**; 2020 c. 1, Sch. 5 para. 1(1)

### Purposes

**4.—(1)** The regulations contained in this instrument that are made under section 1 of the Act have the following purposes—

- (a) compliance with the relevant UN obligations, and
- (b) the additional purposes mentioned in paragraph (2).

(2) Those additional purposes are—

- (a) restricting the ability of the DPRK to carry on banned programmes,
- (b) promoting the abandonment by the DPRK of banned programmes and the decommissioning of the DPRK's banned weapons, and
- (c) otherwise promoting peace, security and stability on the Korean peninsula,

otherwise than by compliance with the relevant UN obligations.

(3) In this regulation, “the relevant UN obligations” means—

- (a) the obligation that the United Kingdom has by virtue of paragraph 8(d) of resolution 1718 (asset-freeze etc.) to take the measures required by that provision in respect of persons <sup>M5</sup> for the time being named for the purposes of that provision by the Security Council or the Committee;
- (b) the obligations that the United Kingdom has by virtue of the provisions listed in paragraph (4) in respect of persons—
  - (i) acting on behalf of or at the direction of, or
  - (ii) owned or controlled by,the persons for the time being named by the Security Council or the Committee for the purposes of paragraph 8(d) of resolution 1718 who are referred to in those provisions;
- (c) the obligations that the United Kingdom has by virtue of paragraph 32 of resolution 2270 (application of requirements in paragraph 8(d) of resolution 1718 in certain cases);
- (d) the obligations that the United Kingdom has by virtue of the provisions listed in paragraph (5) to take the measures required by paragraph 8(d) of resolution 1718 in respect of ships for the time being designated by the Security Council or the Committee for the purposes of those provisions;
- (e) the obligations that the United Kingdom has by virtue of the following provisions (restrictions on investment and on financial services and markets)—
  - (i) paragraph 6 of resolution 2087;
  - (ii) paragraphs 11 and 14 of resolution 2094 as read with paragraph 37 of resolution 2270 and paragraph 13 of resolution 2371 (cash transfers, gold and clearing of funds);
  - (iii) paragraphs 33 and 34 of resolutions 2270 (as read with paragraph 14 of 2371), and paragraphs 35 and 36 of resolution 2270;
  - (iv) paragraphs 31 and 32 of resolution 2321;
  - (v) paragraph 12 of resolution 2371 and paragraph 18 of resolution 2375 (joint ventures);
- (f) the obligations that the United Kingdom has by virtue of paragraphs 16 and 18 of resolution 2321 (bank accounts for diplomatic missions and diplomats; real property);

- (g) the obligations that the United Kingdom has by virtue of paragraph 8(a)(i) and (ii), (b) and (c) of resolution 1718 (export, supply, sale etc. of, and technical assistance relating to, arms and dual-use items);
  - (h) the obligations that the United Kingdom has by virtue of the following provisions (trade restrictions)—
    - (i) paragraph 8(a)(iii) of resolution 1718;
    - (ii) paragraph 17 of resolution 1874;
    - (iii) paragraph 11 of resolution 2094, as read with paragraph 14 of resolution 2371;
    - (iv) paragraphs 8, 30, 31 and 37 of resolution 2270;
    - (v) paragraphs 28, 29 and 30 of resolution 2321;
    - (vi) paragraphs 8 and 10 of resolution 2371, and paragraph 9 of resolution 2371 as read with paragraph 6 of resolution 2397;
    - (vii) paragraphs 13, 14, 15 and 16 of resolution 2375;
    - (viii) paragraphs 4, 5, 6, 7 and 14 of resolution 2397;
  - (i) the obligations that the United Kingdom has by virtue of paragraph 19 of resolution 2270 (ships and aircraft);
  - (j) the obligation that the United Kingdom has by virtue of paragraph 22 of resolution 2270 (ships: port entry);
  - (k) the obligations that the United Kingdom has by virtue of the following provisions to take the measures required by those provisions (prohibition on port entry etc.) in respect of ships for the time being designated by the Security Council or the Committee for the purposes of those provisions—
    - (i) paragraph 12(a), (b) and (c) of resolution 2321;
    - (ii) paragraph 6 of resolution 2371 as read with paragraph 6 of resolution 2375;
    - (iii) paragraph 8 of resolution 2375;
  - (l) the obligations that the United Kingdom has by virtue of paragraph 17 of resolution 2094, paragraph 20 of resolution 2270, paragraphs 8, 9, 22, 23 and 24 of resolution 2321, paragraph 7 of resolution 2371, paragraph 11 of resolution 2375 and paragraphs 9, 11 and 12 of resolution 2397 (ships and services relating to ships);
  - (m) the obligations that the United Kingdom has by virtue of paragraph 21 of resolution 2270 and paragraph 23 of resolution 2321 (aircraft and services relating to aircraft).
- (4) The provisions referred to in paragraph (3)(b) are—
- (a) paragraph 8(d) of resolution 1718;
  - (b) paragraph 8 of resolution 2094;
  - (c) paragraph 10 of resolution 2270;
  - (d) paragraph 3 of resolution 2321;
  - (e) paragraph 3 of resolution 2356;
  - (f) paragraph 3 of resolution 2371;
  - (g) paragraph 3 of resolution 2375;
  - (h) paragraph 3 of resolution 2397.
- (5) The provisions referred to in paragraph (3)(d) are—
- (a) paragraph 12(d) of resolution 2321;
  - (b) paragraph 8 of resolution 2375.

- (6) In paragraph (3)—
- (a) any reference to paragraph 8(d) of resolution 1718 (asset-freeze) is to that provision as read with paragraph 9 of resolution 2087 and paragraphs 12 and 15 of resolution 2270;
  - (b) any reference to persons named by the Committee includes people named by virtue of—
    - (i) paragraph 12 of resolution 2087,
    - (ii) paragraph 27 of resolution 2094, or
    - (iii) paragraph 16 of resolution 2270;
  - (c) the reference to paragraph 8(a)(i) and (ii), (b) and (c) of resolution 1718 is to those provisions as read with—
    - (i) paragraphs 9, 10 and 23 of resolution 1874,
    - (ii) paragraphs 5(b) and 9 of resolution 2087,
    - (iii) paragraphs 7, 20 and 22 of resolution 2094,
    - (iv) paragraphs 6, 7, 8 and 27 of resolution 2270,
    - (v) paragraphs 4 and 7 of resolution 2321,
    - (vi) paragraphs 4 and 5 of resolution 2371, and
    - (vii) paragraphs 4 and 5 of resolution 2375;
  - (d) the reference to paragraph 8(a)(iii) of resolution 1718 (luxury goods) is to that provision as read with paragraph 9 of resolution 2087, paragraph 23 of resolution 2094, paragraph 39 of resolution 2270 and paragraph 5 of resolution 2321;
  - (e) “owned or controlled” includes owned or controlled through illicit means within the meaning of the provisions mentioned in paragraph (4).

#### **Commencement Information**

**I7** Reg. 4 not in force at made date, see [reg. 1\(2\)](#)

**I8** [Reg. 4](#) in force at 25.3.2019 by [S.I. 2019/627](#), [reg. 7\(1\)\(c\)](#)

#### **Marginal Citations**

**M5** “Person” is defined by section 9(5) of the Sanctions and Anti-Money Laundering Act 2018 to include (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons.

**Changes to legislation:**

There are currently no known outstanding effects for the The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, PART 1.