

2017 No. 218

CRIMINAL LAW

**The Democratic People's Republic of Korea (European Union
Financial Sanctions) Regulations 2017**

Made - - - - at 1.30 p.m. on 28th February 2017

Laid before Parliament at 5.00 p.m. on 28th February 2017

Coming into force - - - - 1st March 2017

The Treasury are designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to restrictive measures against persons or bodies listed by an international organisation.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Treasury that it is expedient for any reference to an Annex to Council Regulation (EC) No. 329/2007 of 27th March 2007(c) concerning restrictive measures against the Democratic People's Republic of Korea to be construed as a reference to that Annex as amended from time to time.

The Treasury, in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972, make the following Regulations.

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017 and come into force on 1st March 2017.

(2) An offence under these Regulations may be committed by conduct wholly or partly outside the United Kingdom by—

- (a) a UK national, or

(a) S.I. 2010/1834.

(b) 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. Paragraph 1A of Schedule 2 to the 1972 Act was inserted by the Legislative and Regulatory Reform Act 2006, section 28 and amended by S.I. 2007/1388 and the European Union (Amendment) Act 2008, Schedule, Part 1.

(c) OJ L 88 29.3.2007, p.1, as amended most recently by Council Regulation (EU) No. 682/2016 of 3rd May 2016 (OJ L 117 5.4.2016, p.1), Council Regulation (EU) No. 841/2016 of 28th May 2016 (OJ L 141 28.05.2016, p.36), and Council Regulation (EU) No. 2017/330 of 27th February 2017 (OJ L 50 28.2.2017, p1).

(b) a body incorporated or constituted under the law of any part of the United Kingdom.

(3) In paragraph (2)—

“conduct” includes acts and omissions;

“UK national” means—

- (a) a British citizen,
- (b) a British overseas territories citizen who acquired their citizenship from a connection with Gibraltar, or
- (c) a British subject under Part 4 of the British Nationality Act 1981(a) (British subjects) with the right of abode in the United Kingdom.

Interpretation

2.—(1) In these Regulations—

“the 2000 Act” means the Financial Services and Markets Act 2000(b);

“the Council Regulation” means Council Regulation (EC) No. 329/2007 of 27th March 2007 concerning restrictive measures against the Democratic People’s Republic of Korea, and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time;

“designated person” means a person, entity or body listed in Annex IV, V or Va to the Council Regulation;

“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;

“relevant institution” means—

- (a) a person who has permission under Part 4A of the 2000 Act (permission to carry on regulated activities)(c);
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act(d) (EEA passport rights) which has permission under paragraph 15 of that Schedule(e) (as a result of qualifying for authorisation under paragraph 12 of that Schedule(f)) to accept deposits; or
- (c) an undertaking which by way of business operates a currency exchange office, transmits money (or any representations of monetary value) by any means or cashes cheques which are made payable to customers.

(2) The definition of “relevant institution” in paragraph (1) must be read with—

- (a) section 22 of the 2000 Act(g) (regulated activities),
- (b) any relevant order made under that section(h), and
- (c) Schedule 2 to the 2000 Act(i) (regulated activities).

(3) Any expression used both in these Regulations and in the Council Regulation has the meaning that it bears in the Council Regulation.

(a) 1981 c.61. Part 4 was amended by the British Overseas Territories Act 2002 (c.8), section 1(1)(b) and the Nationality, Immigration and Asylum Act 2002 (c.41), sections 15 and 161, Schedule 2, paragraph 1(i) and Schedule 9.

(b) 2000 c.8.

(c) Part 4A was inserted by the Financial Services Act 2012 (c.21), section 11(2) and amended most recently by S.I. 2015/910.

(d) As amended by S.I. 2006/3221 and S.I. 2013/3115.

(e) As amended by S.I. 2003/2066, S.I. 2007/3253, S.I. 2012/1906, S.I. 2013/1881 and S.I. 2015/575.

(f) As amended by S.I. 2007/126, S.I. 2007/3253 and S.I. 2012/1906.

(g) Section 22 was amended by the Financial Services Act 2012, section 7(1).

(h) See S.I. 2001/544 as amended, most recently by S.I. 2015/910.

(i) Schedule 2 was amended by the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15, Schedule 2, paragraph 1, the Regulation of Financial Services (Land Transactions) Act 2005 (c.24), section 1, the Financial Services Act 2012, section 7(2) to (5) and section 8 and by S.I. 2013/1881.

PART 2

Funds and Economic Resources

Freezing of funds and economic resources

3.—(1) A person (“P”) must not deal with funds or economic resources belonging to, or owned, held or controlled by, a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

(2) In paragraph (1) “deal with” means—

(a) in relation to funds—

(i) use, alter, move, allow access to or transfer;

(ii) deal with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or

(iii) make any other change that would enable use, including portfolio management; and

(b) in relation to economic resources, exchange, or use in exchange, for funds, goods or services.

(3) Paragraph (1) is subject to regulation 23 (licences).

Making funds available to a designated person

4.—(1) A person (“P”) must not make funds available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to regulations 9 (credits to a frozen account) and 23.

Making funds available for the benefit of a designated person

5.—(1) A person (“P”) must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) For the purposes of this regulation—

(a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

(b) “financial benefit” includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.

(3) Paragraph (1) is subject to regulations 9 and 23.

Making economic resources available to a designated person

6.—(1) A person (“P”) must not make economic resources available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect—

(a) that P is making the economic resources so available, and

(b) that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

(2) Paragraph (1) is subject to regulation 23.

Making economic resources available for the benefit of a designated person

7.—(1) A person (“P”) must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

(2) For the purposes of this regulation—

- (a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and
 - (b) “financial benefit” includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.
- (3) Paragraph (1) is subject to regulation 23.

Funds and economic resources: Government of Democratic People’s Republic of Korea and Worker’s Party of Korea

8.—(1) The Treasury may direct that the provisions of regulations 4 to 7 apply in relation to a person as if that person were a designated person.

(2) The Treasury may only make a direction under paragraph (1) when the conditions in paragraph (3) are satisfied and only in respect of—

- (a) a person, entity or body of the Government of the Democratic People’s Republic of Korea;
- (b) the Worker’s Party of Korea;
- (c) a person or entity acting on behalf of or at the direction of any person, entity or body within sub-paragraph (a) or (b); or
- (d) a person or entity owned or controlled by any person, entity or body within sub-paragraph (a) or (b).

(3) The conditions in this paragraph are satisfied if—

- (a) funds and economic resources are likely to be made available to a person, entity or body for a purpose other than that of a diplomatic or consular mission, including a mission to the United Nations; and
- (b) the Treasury consider that the person, entity or body is associated with nuclear-related, other weapons of mass destruction-related, or ballistic missile-related programmes, or other activities prohibited by the Council Regulation.

(4) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must inform the Treasury if it suspects that funds or economic resources have been or are likely to be made available to any person, entity or body listed within paragraph (2)(a) to (d) for a purpose other than that of a diplomatic or consular mission, including a mission to the United Nations.

(5) Any direction made under paragraph (1) must be—

- (a) published by the Treasury on their website;
- (b) sent by the Treasury to one or more credit or financial institutions; or
- (c) sent by the Treasury to one or more other persons.

Credits to a frozen account

9.—(1) The prohibitions in regulations 4 and 5 are not contravened by a person who credits a frozen account with—

- (a) interest or other earnings due on the account, or
- (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.

(2) The prohibitions in regulations 4 and 5 do not prevent a relevant institution from crediting a frozen account where it receives funds transferred to the account.

(3) A relevant institution must inform the Treasury without delay if it credits a frozen account in accordance with paragraph (1)(b) or (2).

(4) In this regulation “frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person.

PART 3

Restrictions on Financial Services and Markets

Credit and financial institutions: accounts and correspondent banking relationships

10.—(1) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must not—

- (a) open a new bank account with,
- (b) establish a new correspondent banking relationship with,
- (c) establish a new joint venture with, or
- (d) take an ownership interest in,

a person falling within paragraph (2), if the credit or financial institution knows or has reasonable cause to suspect that the account, relationship or venture is with, or the ownership interest is in, a person falling within paragraph (2).

(2) The following persons fall within this paragraph—

- (a) a credit or financial institution domiciled in the Democratic People's Republic of Korea;
- (b) a branch or subsidiary, wherever located, of a credit or financial institution domiciled in the Democratic People's Republic of Korea as listed in Annex VI of the Council Regulation;
- (c) a credit or financial institution that is neither domiciled in the Democratic People's Republic of Korea nor falls within the scope of Article 16 of the Council Regulation, but is controlled by a person, entity or body domiciled in the Democratic People's Republic of Korea, as listed in Annex VI of the Council Regulation.

(3) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must not—

- (a) open a new representative office in the Democratic People's Republic of Korea, or
- (b) establish a new branch or subsidiary in the Democratic People's Republic of Korea.

(4) Paragraph 1(b) to (d) are subject to regulation 23.

Credit and financial institutions: representative offices etc

11. A person ("P") must not—

- (a) authorise the opening of a representative office or the establishment of a branch or subsidiary in the European Union of a person falling within regulation 10(2);
- (b) conclude an agreement for, or on behalf of, a person falling within regulation 10(2) which relates to the opening of a representative office or the establishment of a branch or subsidiary in the European Union, if P knows or has reasonable cause to suspect that the agreement is for, or on behalf of, such a person; or
- (c) authorise the taking up and pursuing of business by a representative office, branch or subsidiary of a person falling within regulation 10(2), if the representative office, branch or subsidiary was not operational before 19th February 2013.

Acquisition or extension of ownership interest

12. A person falling within regulation 10(2) must not acquire or extend a participation, or acquire any other ownership interest, in a credit or financial institution falling within the scope of Article 16 of the Council Regulation.

Sale or purchase of bonds

13.—(1) A person (“P”) must not sell or purchase public or public-guaranteed bonds issued after 19th February 2013, directly or indirectly, to or from a person, entity or body falling within paragraph (4) if P knows or has reasonable cause to suspect that the sale or purchase would be to or from such a person, entity or body.

(2) A person (“P”) must not provide brokering services with respect to public or public-guaranteed bonds issued after 19th February 2013 to a person, entity or body falling within paragraph (4) if P knows or has reasonable cause to suspect that the services would be provided to such a person, entity or body.

(3) A person (“P”) must not assist a person, entity or body falling within paragraph (4) to issue public or public-guaranteed bonds, by providing—

- (a) brokering services,
- (b) advertising, or
- (c) any other service with respect to such bonds,

if P knows or has reasonable cause to suspect that P would be assisting such a person, entity or body.

(4) The following persons, entities and bodies fall within this paragraph—

- (a) the Democratic People’s Republic of Korea and its Government, public bodies, corporations and agencies;
- (b) the Central Bank of the Democratic People’s Republic of Korea;
- (c) any person falling within regulation 10(2);
- (d) a person, entity or body acting on behalf of or at the direction of a legal person, entity or body falling within sub-paragraphs (a) or (b);
- (e) a legal person, entity or body owned or controlled by a person, entity or body falling within sub-paragraphs (a) to (c).

DPRK credit and financial institutions: branches, subsidiaries, and representative offices

14. A person must not operate or facilitate the operation of—

- (a) a branch;
- (b) a subsidiary; or
- (c) a representative office,

of a person falling within regulation 10(2).

Severance of existing financial relationships

15.—(1) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must have, by 31st May 2016—

- (a) closed any bank account with;
- (b) terminated any correspondent banking relationship with;
- (c) terminated any joint venture with;
- (d) relinquished any ownership interest in,

a person falling within regulation 10(2).

(2) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must have, by 31st May 2016—

- (a) closed any branch in the Democratic People’s Republic of Korea; and
- (b) closed any subsidiary, or representative office in the Democratic People’s Republic of Korea.

(3) Paragraphs (1)(a) and (2)(b) are subject to regulation 23.

Business directly or indirectly with designated persons

16. A person must not participate, directly or indirectly, in any business arrangements, including joint ventures, with—

- (a) any person, entity or body listed in Annex IV of the Council Regulation; or
- (b) any other person, entity or body acting on behalf or at the direction of such a person, entity or body.

Financial support for trade

17.—(1) A person may not provide any financial support for trade with the Democratic People's Republic of Korea.

(2) In paragraph (1), financial support for trade includes, but is not limited to—

- (a) finance;
- (b) financial assistance;
- (c) export credits;
- (d) guarantees; and
- (e) insurance.

(3) Paragraph (1) is subject to regulation 23.

Investment and commercial activities

18.—(1) A person must not accept or approve investment in a commercial activity where such investment is made by a person, entity or body listed in paragraph (6).

(2) A person must not grant financing or financial assistance to any legal person, entity or body listed in paragraph (6)(d) to (f).

(3) A person must not establish a joint venture with a legal person, entity or body listed in paragraph (6) if that person is engaged in any activities listed in paragraph (7).

(4) A person must not acquire or extend any ownership interest in a legal person, entity or body listed in paragraph (6) if that person is engaged in any activities listed in paragraph (7).

(5) A person must not provide investment services directly related to any activity that is prohibited by paragraphs (2) to (4).

(6) The persons, entities and bodies listed in this paragraph are—

- (a) a person, entity or body of the Government of the Democratic People's Republic of Korea;
- (b) the Worker's Party of Korea;
- (c) a national of the Democratic People's Republic of Korea;
- (d) a legal person, entity or body incorporated or constituted under the law of the Democratic People's Republic of Korea;
- (e) a person, entity or body acting on behalf of or at the direction of a person, entity or body falling within sub-paragraphs (a) to (d); or
- (f) a legal person, entity or body owned or controlled by a person, entity or body falling within sub-paragraphs (a) to (d).

(7) The activities listed in this paragraph are—

- (a) the nuclear-related, other weapons of mass destruction-related, or ballistic missile-related programmes of the Democratic People's Republic of Korea;
- (b) mining industry;

- (c) refining industry; and
- (d) chemical industry.

Transfers of funds

19.—(1) Subject to paragraph (3) a person (“P”) must not make a transfer of funds to, or receive a transfer of funds from, the Democratic People’s Republic of Korea.

(2) Subject to paragraph (3) a credit or financial institution falling within the scope of Article 16 of the Council Regulation must not enter into, or continue to participate in, any transaction with—

- (a) credit or financial institutions domiciled in the Democratic People’s Republic of Korea;
- (b) branches or subsidiaries, wherever located, of credit or financial institutions domiciled in the Democratic People’s Republic of Korea, as listed in Annex VI to the Council Regulation;
- (c) credit or financial institutions that are neither domiciled in the Democratic People’s Republic of Korea nor fall within the scope of Article 16 of the Council Regulation, but are controlled by persons, entities or bodies domiciled in the Democratic People’s Republic of Korea, as listed in Annex VI of the Council Regulation.

(3) A transfer of funds may be made—

- (a) where the value of the transfer is €15,000 or less, if the transfer relates to a transaction mentioned in paragraph (4); or
- (b) where the value of the transfer is over €15,000, if—
 - (i) the transfer relates to a transaction mentioned in paragraph (4); and
 - (ii) P or the institution has obtained prior authorisation from the Treasury.

(4) The transactions are—

- (a) transactions regarding foodstuffs, healthcare or medical equipment;
- (b) transactions for agricultural or humanitarian purposes;
- (c) transactions regarding personal remittances;
- (d) transactions that have been licensed under regulation 23;
- (e) transactions that are permitted under an exemption contained in the Council Regulation;
- (f) transactions regarding a trade contract that is not prohibited by the Council Regulation;
- (g) transactions regarding the official purposes of a diplomatic or consular mission of the Democratic People’s Republic of Korea;
- (h) transactions regarding the official purposes of a diplomatic or consular mission of a state other than the Democratic People’s Republic of Korea;
- (i) transactions regarding the official purposes of an international organisation enjoying immunities in accordance with international law;
- (j) transactions required exclusively for the implementation of projects funded by the European Union or its Member States for development purposes directly addressing the needs of the civilian population of the Democratic People’s Republic of Korea or the promotion of denuclearisation;
- (k) transactions for payments which satisfy claims against—
 - (i) the Democratic People’s Republic of Korea;
 - (ii) a national of the Democratic People’s Republic of Korea;
 - (iii) a legal person, entity or body incorporated or constituted under the law of the Democratic People’s Republic of Korea; and
- (l) transactions of a similar nature to those referred to in sub-paragraph (k) that do not contribute to activities prohibited by this Regulation.

(5) The requirement for prior authorisation in paragraph (3) does not apply to any transaction which falls within paragraph (5)(h) or (i).

(6) In this regulation—

- (a) a reference to an amount in euros includes a reference to the equivalent amount in another currency; and
- (b) a reference to a transfer of funds of a particular amount includes a transfer executed in several operations which appear to be linked, as well as a transfer executed in a single operation.

Authorisations

20.—(1) An authorisation granted by the Treasury under regulation 19(3) may be—

- (a) general or granted to a category of persons or to a particular person;
- (b) subject to conditions;
- (c) of indefinite duration or subject to an expiry date.

(2) The Treasury may vary or revoke an authorisation at any time.

(3) On the grant, variation or revocation of an authorisation, the Treasury must—

- (a) in the case of an authorisation granted to a particular person, give written notice of the grant, variation or revocation to that person,
- (b) in the case of a general authorisation or an authorisation granted to a category of persons, take such steps as the Treasury consider appropriate to publicise the grant, variation or revocation of the authorisation.

(4) A person commits an offence who, for the purpose of obtaining an authorisation, knowingly or recklessly—

- (a) provides information that is false in a material respect, or
- (b) provides or produces a document that is not what it purports to be.

(5) A person who purports to act under an authorisation granted by the Treasury but who fails to comply with any conditions included in the authorisation commits an offence.

Bank accounts for diplomats and diplomatic missions of the Democratic People's Republic of Korea

21.—(1) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must not open a new bank account for—

- (a) a diplomatic mission or consular post of the Democratic People's Republic of Korea, or
- (b) a national of the Democratic People's Republic of Korea who is a member of such a diplomatic mission or consular post.

(2) A credit or financial institution falling within the scope of Article 16 of the Council Regulation must close any bank account by 11th April 2017 which is held or controlled by—

- (a) a diplomatic mission or consular post of the Democratic People's Republic of Korea, or
- (b) a national of the Democratic People's Republic of Korea who is a member of such a diplomatic mission or consular post.

(3) Paragraphs (1) and (2) are subject to regulation 23.

Real property

22.—(1) A person must not—

- (a) lease, or otherwise make available, real property, directly or indirectly, to persons, entities or bodies of the Government of the Democratic People's Republic of Korea;

- (b) lease real property, directly or indirectly, from persons, entities or bodies of the Government of the Democratic People's Republic of Korea;
- (c) engage in any activity linked to the use of real property that persons, entities or bodies of the Government of the Democratic People's Republic of Korea own, lease or are otherwise entitled to use.

(2) The prohibition in paragraph (1)(a) does not apply where the real property is used for diplomatic or consular activities.

(3) The prohibition in paragraph 1(c) does not apply to the provision of goods and services which—

- (a) are essential for the functioning of diplomatic missions or consular posts; and
- (b) cannot be used to generate income or profit directly or indirectly for the Government of the Democratic People's Republic of Korea.

PART 4

Licences

Licences

23.—(1) The prohibitions and requirements in regulations 3 to 8, 10(1)(b) to (d), 15(1)(a) and (2)(b), 17(1) and 21 do not apply to anything done under the authority of a licence granted by the Treasury.

(2) A licence must specify the acts authorised by it and may be—

- (a) general or granted to a category of persons or to a particular person;
- (b) subject to conditions;
- (c) of indefinite duration or subject to an expiry date.

(3) The Treasury may vary or revoke a licence at any time.

(4) On the grant, variation or revocation of a licence, the Treasury must—

- (a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person,
- (b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Treasury consider appropriate to publicise the grant, variation or revocation of the licence.

(5) A person commits an offence who, for the purpose of obtaining a licence, knowingly or recklessly—

- (a) provides information that is false in a material respect, or
- (b) provides or produces a document that is not what it purports to be.

(6) A person who purports to act under the authority of a licence but who fails to comply with any condition included in the licence commits an offence.

PART 5

Offences

Contravention and circumvention of prohibitions

24.—(1) A person who contravenes any of the prohibitions or requirements in regulations 3 to 8, 10 to 19, 21 and 22 commits an offence.

(2) A person commits an offence who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in regulations 3 to 8, 10 to 19, 21 and 22, or
- (b) to enable or facilitate the contravention of any such prohibition or requirement.

Officers of a body corporate etc.

25.—(1) Where an offence under these Regulations committed by a body corporate—

- (a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or
- (b) is attributable to any neglect on the part of any such person,

that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Paragraph (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

- (a) in the case of a partnership, to a partner;
- (b) in the case of an unincorporated body other than a partnership—
 - (i) where the body’s affairs are managed by its members, to a member of the body;
 - (ii) in any other case, to a member of the governing body.

Penalties

26.—(1) A person guilty of an offence under regulations 23 or 24 is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction—
 - (i) to imprisonment for a term not exceeding three months; or
 - (ii) to a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum,or to both.

(2) A person guilty of an offence under paragraph 1(5) or paragraph 4(1) of the Schedule is liable on summary conviction—

- (a) to imprisonment for a term not exceeding three months; or
 - (b) to a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum,
- or to both.

Proceedings

27.—(1) Proceedings against any person for an offence under these Regulations may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(2) Proceedings against any person for an offence under these Regulations which cannot be taken under paragraph (1) above may be taken before any appropriate court in the United Kingdom.

(3) An offence falling under these Regulations which is committed wholly or partly outside the United Kingdom may for all incidental purposes be treated as having been committed within the jurisdiction of the court where proceedings are taken.

(4) In England and Wales an information relating to an offence that is triable by a magistrates' court may be so tried if it is laid—

- (a) at any time within three years after the commission of the offence, and
- (b) within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(5) In Scotland—

- (a) summary proceedings for an offence may be commenced—
 - (i) within twelve months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to the knowledge of the Lord Advocate, and
 - (ii) not later than three years after the commission of the offence; and
- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995^(a) (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

(6) In Northern Ireland summary proceedings for an offence may be instituted—

- (a) at any time within three years after the commission of the offence, and
- (b) within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(7) For the purposes of this regulation a certificate of the prosecutor (or, in Scotland, the Lord Advocate) as to the date on which such evidence as is referred to above came to their knowledge is conclusive evidence.

Consent to prosecution

28.—(1) Proceedings for an offence under these Regulations (other than for a summary offence) may not be instituted—

- (a) in England and Wales, except by or with the consent of the Attorney General,
- (b) in Northern Ireland—
 - (i) where the offence is committed wholly or partly outside Northern Ireland, except by or with the consent of the Advocate General for Northern Ireland;
 - (ii) for all other offences, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(2) Nothing in paragraph (1) prevents—

- (a) the arrest of a person in respect of an offence under these Regulations, or
- (b) the remand in custody or on bail of any person charged with such an offence.

PART 6

Miscellaneous

Information provisions

29. The Schedule (information provisions) has effect.

(a) 1995 c.46.

Notices

30.—(1) This regulation has effect in relation to any notice to be given to a person by the Treasury under regulation 20 (authorisations) or 23 (licences).

(2) Any such notice may be given—

- (a) by posting it to the person's last known address, or
- (b) where the person is a body corporate, partnership or unincorporated body other than a partnership, by posting it to the registered or principal office of the body or partnership concerned.

(3) Where the Treasury do not have an address for the person, they must make arrangements for the notice to be given to the person at the first available opportunity.

The Crown

31.—(1) These Regulations bind the Crown.

(2) No contravention by the Crown of a provision of these Regulations makes the Crown criminally liable.

(3) The High Court or, in Scotland, the Court of Session may, on the application of a person appearing to the court to have an interest, declare unlawful any act or omission of the Crown that constitutes a contravention of a provision of these Regulations.

(4) Nothing in this regulation affects Her Majesty in Her private capacity.

(5) Paragraph (4) is to be read as if section 38(3) of the Crown Proceedings Act 1947(a) (meaning of Her Majesty in Her private capacity) were contained in these Regulations.

Revocation

32.—(1) The following instruments are revoked—

- (a) The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2013(b);
- (b) The Democratic People's Republic of Korea (European Union Financial Sanctions) (Amendment) Regulations 2016(c);
- (c) The Democratic People's Republic of Korea (European Union Financial Sanctions) (Amendment) (No 2) Regulations 2016(d); and
- (d) The Democratic People's Republic of Korea (European Union Financial Sanctions) (Amendment) (No 3) Regulations 2016(e).

Savings

33. Any licence granted under regulation 9 or any authorisation granted under regulation 13F of the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2013 which was in effect immediately before the coming into force of these Regulations has effect as if it were a licence granted by the Treasury under regulation 23 or an authorisation granted by the Treasury under regulation 19 of these Regulations respectively.

Guto Bebb
David Evennett

At 1.30 p.m. on 28th February 2017 Two of the Lords Commissioners of Her Majesty's Treasury

(a) 1947 c.44.
(b) S.I. 2013/1877.
(c) S.I. 2016/578.
(d) S.I. 2016/634.
(e) S.I. 2016/1214.

Information Provisions

Reporting obligations of relevant institutions

- 1.—(1) A relevant institution must inform the Treasury as soon as practicable if—
- (a) it knows, or has reasonable cause to suspect, that a person—
 - (i) is a designated person, or
 - (ii) has committed an offence under regulation 23 or 24, and
 - (b) the information or other matter on which the knowledge or suspicion is based came to it in the course of carrying on its business.
- (2) Where a relevant institution informs the Treasury under sub-paragraph (1), it must state—
- (a) the information or other matter on which the knowledge or suspicion is based, and
 - (b) any information it holds about the person by which the person can be identified.
- (3) Sub-paragraph (4) applies if—
- (a) a relevant institution informs the Treasury under sub-paragraph (1) that it knows, or has reasonable cause to suspect, that a person is a designated person, and
 - (b) that person is a customer of the institution.
- (4) The relevant institution must also state the nature and amount or quantity of any funds or economic resources held by it for the customer.
- (5) A relevant institution that fails to comply with any requirement of sub-paragraph (1), (2) or (4) commits an offence.

Powers to request information

- 2.—(1) The Treasury may request a designated person to provide information concerning—
- (a) funds or economic resources belonging to, owned, held or controlled by or on behalf of the designated person, or
 - (b) any disposal of such funds or economic resources.
- (2) The Treasury may request a designated person to provide such information as the Treasury may reasonably require about expenditure—
- (a) by or on behalf of the designated person, or
 - (b) for the benefit of the designated person.
- (3) The power in sub-paragraph (1) or (2) is exercisable only where the Treasury believe that it is necessary for the purpose of monitoring compliance with or detecting evasion of these Regulations.
- (4) The Treasury may request a person acting under an authorisation granted under regulation 19 or a licence granted under regulation 23 to provide information concerning—
- (a) funds or transactions to which the authorisation relates,
 - (b) funds or economic resources dealt with under the licence, or
 - (c) funds or economic resources made available under the licence.
- (5) The Treasury may request any person in or resident in the United Kingdom to provide such information as the Treasury may reasonably require for the purpose of—
- (a) establishing for the purposes of these Regulations—
 - (i) the nature and amount or quantity of any funds or economic resources belonging to, owned, held or controlled by or on behalf of a designated person;

- (ii) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person; or
 - (iii) the nature of any financial transactions entered into by a designated person;
 - (b) monitoring compliance with or detecting evasion of these Regulations; or
 - (c) obtaining evidence of the commission of an offence under these Regulations.
- (6) The Treasury may specify the manner in which, and the period within which, information is to be provided.
- (7) If no such period is specified, the information which has been requested must be provided within a reasonable time.
- (8) A request may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.
- (9) Information requested under this paragraph may relate to any period of time during which a person is, or was, a designated person.
- (10) Information requested under sub-paragraph (1)(b), (2) or (5)(a)(iii) may relate to any period of time before a person became a designated person (as well as, or instead of, any subsequent period of time).

Production of documents

3.—(1) A request under paragraph 2 may include a request to produce specified documents or documents of a specified description.

(2) Where the Treasury request that documents be produced, they may—

- (a) take copies of or extracts from any document so produced;
- (b) request any person producing a document to give an explanation of it; and
- (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
 - (i) in the case of a partnership, a present or past partner or employee of the partnership,
 - (ii) in any other case, a present or past officer or employee of the body concerned,
 to give such an explanation.

(3) Where the Treasury request a designated person or a person acting under an authorisation granted under regulation 19 or a licence granted under regulation 23 to produce documents, that person must—

- (a) take reasonable steps to obtain the documents (if not already in the person's possession or control);
- (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

Failure to comply with request for information

4.—(1) A person commits an offence who—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule;
- (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, conceals or removes any document; or
- (d) otherwise intentionally obstructs the Treasury in the exercise of their powers under this Schedule.

(2) Where a person is convicted of an offence under this paragraph, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

General power to disclose information

5.—(1) The Treasury may disclose any information obtained by them pursuant to these Regulations to any person for the purpose of facilitating or ensuring compliance with the Council Regulation.

(2) The power in sub-paragraph (1) includes but is not limited to disclosing information to the following persons—

- (a) a police officer;
- (b) any person holding or acting in any office under or in the service of—
 - (i) the Crown in right of the Government of the United Kingdom,
 - (ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government,
 - (iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark,
 - (iv) the Government of the Isle of Man, or
 - (v) the Government of any British overseas territory;
- (c) any law officer of the Crown for Jersey, Guernsey or the Isle of Man;
- (d) the Scottish Legal Aid Board;
- (e) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission, the Isle of Man Insurance and Pensions Authority or the Isle of Man Financial Supervision Commission;
- (f) any other regulatory body, including those of other Member States;
- (g) any organ of the United Nations; or
- (h) the Council of the European Union, the European Commission or the Government of a Member State.

(3) The purpose of facilitating or ensuring compliance with the Council Regulation referred to in sub-paragraph (1) includes but is not limited to the following—

- (a) monitoring compliance with, or detecting evasion of, these Regulations or the Council Regulation;
- (b) giving assistance or co-operation, pursuant to the Council Regulation; or
- (c) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings—
 - (i) in the United Kingdom, for an offence under these Regulations, or
 - (ii) in any of the Channel Islands, the Isle of Man or any British overseas territory, for an offence under a similar provision in any such jurisdiction.

(4) The Treasury may disclose any information obtained by them pursuant to these Regulations to any person with the consent of a person who, in their own right, is entitled to the information or to possession of the document, copy or extract.

(5) In sub-paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.

Application of provisions

6.—(1) Nothing done under this Schedule is to be treated as a breach of any restriction imposed by statute or otherwise.

(2) But nothing in this Schedule authorises a disclosure that—

(a) contravenes the Data Protection Act 1998(a), or

(b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000(b).

(3) Nothing in this Schedule is to be read as requiring a person who has acted or is acting as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.

(4) This Schedule does not limit the circumstances in which information may be disclosed apart from this Schedule.

(5) This Schedule does not limit the powers of the Treasury to impose conditions in connection with the discharge of their functions under regulations 20 and 23.

(6) In this paragraph “privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the enforcement of Council Regulation (EC) No. 329/2007 dated 27th March 2007 (OJ L 88, 29.3.2007, p1) concerning restrictive measures against the Democratic People’s Republic of Korea (“DPRK”) (“the Council Regulation”).

The measures include the freezing of funds and economic resources of designated persons and ensuring that funds and economic resources are not made available to them or for their benefit. They also include broader financial sanctions measures.

The Council Regulation has been amended recently by Council Regulation (EU) No 2017/330 (OJ L 50 28.2.2017, p1) of 27th February 2017. The amendments include changes to and the imposition of additional financial sanctions measures relating to the actions of credit and financial institutions, limiting bank accounts for North Korean diplomats and limiting any use of real property by North Korean diplomats for only diplomatic and consular purposes.

Regulation 2 defines designated person as any person named in Annex IV, V or Va to the Council Regulation (as amended from time to time). Annex IV includes those persons listed by the United Nations Security Council, Annex V includes those persons listed by the Council of the European Union and Annex Va includes those persons working on behalf of or at the direction of a person listed in Annex IV or V or those persons assisting in the evasion of sanctions or violating the provisions of the Council Regulation.

Regulations 3 to 7 provide prohibitions against dealing with the funds or economic resources of a designated person, or making funds or economic resources available, directly or indirectly, to or for the benefit of a designated person.

Regulation 8 provides that the Treasury may direct that the provisions of regulations 4 to 7 apply in relation to a person as if that person were a designated person.

Regulation 9 provides an exception to the prohibitions in regulations 4 and 5 where a frozen account is credited for a permitted reason.

Regulations 10 to 18 place restrictions upon dealing with DPRK entities in financial services and markets. They include prohibitions on credit and financial institutions within the EU opening accounts or forming business relationships with DPRK entities, require the termination of existing accounts and relationships, prohibit the acquisitions of bonds, and prohibit investment and financial support for trade.

(a) 1998 c.29.

(b) 2000 c.23.

Regulation 19 prohibits any transfers of funds to or from the DPRK unless exceptions apply, and regulation 20 details the procedure for authorisation of transfers when it is required.

Regulation 21 prohibits DPRK diplomatic missions, consular posts, diplomats and consular officials from holding a bank account without a licence from the Treasury. Regulation 22 prohibits the DPRK from using any real property, and any person from making real property available to the DPRK, for anything except diplomatic and consular purposes.

Regulation 23 provides a licensing procedure to enable funds and economic resources to be exempted from the various prohibitions.

Regulation 24 makes it an offence to breach any of the prohibitions laid out in the Regulations, or to seek to circumvent those provisions. Regulations 25 to 28 contain provision about penalties, proceedings and who, in relation to bodies corporate and other bodies, may be prosecuted for an offence under the Regulations.

Regulation 32 revokes the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2013 and its amending Regulations. These Regulations revoke the 2013 Regulations and consolidate their substantive provisions.

Regulation 33 provides that licences and authorisations which were granted under those revoked Regulations continue to have effect for the purposes of these Regulations.

The Schedule makes provision for information gathering and information disclosure.

A list of designated persons is available on the Internet at: www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets.

An impact assessment has not been produced for this instrument as no impact on the costs of business or the voluntary sector is foreseen. Further information is available from the Office of Financial Sanctions Implementation, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and on the Treasury's website (www.gov.uk/government/organisations/office-of-financial-sanctions-implementation/about).