

**2010 No. 132**

**CUSTOMS**

**The Export Control (North Korea) (Amendment) Order 2010**

*Made* - - - - 26th January 2010

*Laid before Parliament* 27th January 2010

*Coming into force* - - 28th January 2010

The Secretary of State is a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002<sup>(c)</sup>, makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Export Control (North Korea) (Amendment) Order 2010 and shall come into force on 28th January 2010.

**Amendments**

2. The Export Control (North Korea) Order 2007<sup>(d)</sup> is amended as set out in the Schedule to this Order.

26th January 2010

*Ian Lucas*  
Minister for Business and Regulatory Reform  
Department for Business, Innovation and Skills

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(a) S.I. 1994/757, to which there are amendments not relevant to this Order.  
(b) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1).  
(c) 2002 c. 28.  
(d) S.I. 2007/1334, amended by S.I. 2008/3231.

## SCHEDULE

Article 1

### AMENDMENTS TO THE EXPORT CONTROL (NORTH KOREA) ORDER 2007

1. In article 1(2), in the definition of “the Regulation”, after “Council Regulation (EC) No 329/2007” insert “as amended by Commission Regulation (EC) No 117/2008(a) and Council Regulation (EU) No 1283/2009(b)”.

2. In article 4(1)—

(a) for sub-paragraphs (a) and (b) substitute—

“(a) Article 2(1)(a) (prohibition on sale etc. to North Korea of sensitive dual-use items),

(b) Article 2(3) (prohibition on purchase etc. from North Korea of sensitive dual-use items),”;

(b) In sub-paragraphs (c) and (d), substitute “other sensitive goods” with “sensitive dual-use items”;

(c) In sub-paragraph (d) delete “or” and, following that sub-paragraph, insert—

“(da) Article 3(1)(c) (prohibition on obtaining etc. from North Korea technical assistance related to military equipment and sensitive dual-use items),

(db) Article 3(1)(d) (prohibition on obtaining etc. from North Korea financing or financial assistance related to military equipment and sensitive items), or”.

3. In article 4(3) insert “, 3(1)(c), 3(1)(d)” after “3(1)(b)”

4. In article 4(5)(a) substitute “3(1)(e)” for “3(1)(c)” and “Article 3(1)(a), (b), (c) or (d)” for “Article 3(1)(a) or (b)”.

5. Following article 4(5) insert—

“(6) In any case where a person would, apart from this paragraph, be guilty of—

(a) an offence under this article; and

(b) a corresponding offence under the North Korea (United Nations Sanctions) Order 2009(c)

he shall not be guilty of the offence under this article.”.

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(a) OJ No L 35, 9.2.2008, p57.

(b) OJ No L 346, 23.12.2009, p.1; Council Regulation (EC) No 329/2007 was also amended by Commission Regulations (EC) No 389/2009 and (EC) No 689/2009, but those amendments have been superseded by amendments in Council Regulation (EU) No 1283/2009.

(c) S.I. 2009/1749, amended by S.I. 2009/3213.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order arises from changes to the EU legislation imposing sanctions on North Korea. When the relevant Council Regulation was first adopted, a range of implementing legislation was necessary. The legislation relating to export controls appeared in the Export Control (North Korea) Order 2007 and set out penalties for breach of provisions of the Council Regulation. The relevant provisions have now been amended to increase the scope of the existing restrictions (they now extend to all dual-use items listed in the dual-use Regulation and also to other sensitive items) and to impose new restrictions on obtaining technical and financial assistance from North Korea. This has made it necessary to amend the implementing legislation.

The North Korea (United Nations) Sanctions Order 2009 (“the UN Order”) contains offences which could overlap with certain offences under this Order. Sub-paragraph 4(6) provides that, where a person would be guilty of corresponding offences under both regimes, he is guilty only of the offence(s) under the UN Order.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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