

This Statutory Instrument rectifies omissions in S.I. 2016/378 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2016 No. 1119

UNITED NATIONS

**The North Korea and Iran (United Nations Sanctions)
(Amendment) Order 2016**

<i>Made</i>	- - - -	<i>16th November 2016</i>
<i>Laid before Parliament</i>		<i>23rd November 2016</i>
<i>Coming into force</i>	- -	<i>14th December 2016</i>

At the Court at Buckingham Palace, the 16th day of November 2016

Present,

The Queen's Most Excellent Majesty in Council

Under article 41 of the Charter of the United Nations, the Security Council of the United Nations has, by resolution 2231 adopted on 20th July 2015 and by resolution 2270 adopted on 2nd March 2016, called upon Her Majesty's Government in the United Kingdom to apply certain measures to give effect to decisions of the Council in relation to the Democratic People's Republic of Korea (North Korea) and Iran respectively:

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the North Korea and Iran (United Nations Sanctions) (Amendment) Order 2016 and comes into force on 14th December 2016.

(2) In this Order—

“the North Korea Order” means the North Korea (United Nations Sanctions) Order 2009(b);
and

“the Iran Order” means the Iran (United Nations Sanctions) Order 2009(c).

(3) This Order extends to the United Kingdom.

(a) 1946 c.45.

(b) S.I. 2009/1749, as amended by S.I. 2009/3213, S.I. 2012/362 and S.I. 2015/2014.

(c) S.I. 2009/886, amended by S.I. 2010/2978, S.I. 2011/2985, S.I. 2012/362 and S.I. 2016/378.

Amendment of the North Korea Order

2. The North Korea Order is amended in accordance with articles 3 to 19.

3. In article 2—

(a) insert in the appropriate places—

““aviation fuel” means items listed in Annex Ie to the Council Regulation;”,

““coal, iron and iron ore” means items listed in Annex Id to the Council Regulation;”,

““the Council Regulation” means Council Regulation (EC) No. 329/2007 of 27 March 2007 concerning restrictive measures against the Democratic People’s Republic of Korea(a), as amended from time to time;”,

““gold and ores” means items listed in Annex Ic to the Council Regulation;”,

““luxury goods” means luxury goods listed in Annex IV to United Nations Security Council Resolution 2087 adopted on 7th March 2013 and Annex IV to United Nations Security Council Resolution 2270 adopted on 2nd March 2016;”,

““relevant person”—

(a) in relation to a ship, aircraft or vehicle falling within article 3(2)(a) or (b) means—

(i) the owner, charterer or master of the ship,

(ii) the owner, charterer, operator or commander of the aircraft, or

(iii) the owner, driver or operator of the vehicle;

(b) in relation to a ship or aircraft falling within article 3(2)(c) means—

(i) the charterer of the ship or aircraft, or

(ii) the master of the ship, or operator of the aircraft;”, and

““United Kingdom ship” means a ship which—

(a) is registered under Part 2 of the Merchant Shipping Act 1995(b), or

(b) is not registered under the law of any state but is wholly owned by persons each of whom is—

(i) a British citizen, or

(ii) a body incorporated or constituted under the law of any part of the United Kingdom and has its principal place of business in the United Kingdom;”, and

(b) in the definition of “WMD goods”, for “paragraph 8(a)(ii) of resolution 1718 adopted by the United Nations Security Council on 14 October 2006 or pursuant to paragraph 23 of resolution 1874 adopted by the Security Council on 12 June 2009 or as provided in paragraph 24 of resolution 1874” substitute “the provisions of paragraph 8(a), 8(b) and 8(c) of resolution 1718 adopted by the United Nations Security Council on 14th October 2006 or pursuant to the provisions of resolution 2087 adopted by the United Nations Security Council on 22nd January 2013 or pursuant to the provisions of resolution 2270 adopted by the United Nations Security Council on 2nd March 2016”.

4. Omit the general headings above article 3, article 4, article 6 and article 7.

5. For article 3, substitute—

“Use of ships, aircraft and vehicles: carriage of goods to North Korea

3.—(1) Except under the authority of a licence granted by the Secretary of State under this article, it is an offence for a relevant person to knowingly use a ship, aircraft or vehicle falling within paragraph (2) for the carriage of goods to which this article applies if the

(a) OJ No L 88, 29.3.2007, p1.

(b) 1995 c.21.

carriage is, or forms part of, carriage from any place outside North Korea to any destination in North Korea.

(2) The following fall within this paragraph—

- (a) a ship, aircraft or vehicle within the United Kingdom;
- (b) an aircraft registered in the United Kingdom; and
- (c) any other ship or aircraft that is for the time being chartered to a person who is listed in article 1(3)(a) or (b).

(3) The goods to which this article applies are—

- (a) military goods;
- (b) WMD goods;
- (c) luxury goods;
- (d) aviation fuel; or
- (e) any other goods, excluding food and medicine, which the relevant person has been informed by the Secretary of State could contribute to the development of the operational capabilities of armed forces of North Korea.

(4) This article is without prejudice to any other provision of law prohibiting or restricting the use of a ship, aircraft or vehicle.

(5) Paragraph (1) does not apply—

- (a) in relation to the carriage of aviation fuel for civilian aircraft outside North Korea exclusively for consumption during the aircraft's flight to North Korea and its return flight; or
- (b) where the supply, delivery or exportation from the United Kingdom of the goods concerned to North Korea was authorised by a licence or authorisation granted by the Secretary of State under any other enactment or instrument.”.

6. Omit article 4.

7. For article 5, substitute—

“Use of ships, aircraft and vehicles: carriage of goods from North Korea

5.—(1) Except under the authority of a licence granted by the Secretary of State under this article, it is an offence for a relevant person to knowingly use a ship, aircraft or vehicle falling within article 3(2) for the carriage of goods to which this article applies if the carriage is, or forms part of, carriage from any place in North Korea to any destination outside North Korea.

(2) The goods to which this article applies are—

- (a) military goods;
- (b) WMD goods;
- (c) coal, iron and iron ore;
- (d) gold and ores; or
- (e) any other goods, excluding food and medicine, which the relevant person has been informed by the Secretary of State could contribute to the development of the operational capabilities of armed forces of North Korea.

(3) Paragraph (1) does not apply where the procurement of the goods concerned was authorised by a licence or authorisation granted by the Secretary of State under any other enactment or instrument.

(4) This article is without prejudice to any other provision of law prohibiting or restricting the use of a ship, aircraft or vehicle.”.

8. For article 6, substitute—

“Services to North Korean ships

6.—(1) Except under the authority of a licence granted by the Secretary of State under this article, a person (“P”) commits an offence if P provides ship supply services to any ship which P knows or has reasonable cause to suspect is—

- (a) registered in North Korea; and
- (b) is carrying military goods, WMD goods or luxury goods.

(2) Except under the authority of a licence granted by the Secretary of State under this article, a person (“P”) commits an offence if P—

- (a) owns, leases, operates or insures; or
- (b) provides certification or classification services, or associated services, to

a ship which P knows or has reasonable cause to suspect is registered in North Korea.”.

9. After article 6, insert—

“Leasing, chartering or provision of crew services

6A. Except under the authority of a licence granted by the Secretary of State under this article, a person (“P”) commits an offence if P leases or charters a ship or aircraft, or provides crew services, with knowledge or reasonable cause to suspect that the lease, charter or provision of crew services is to—

- (a) North Korea;
- (b) a person listed in Annex IV to the Council Regulation; or
- (c) any person acting on behalf of, or at the direction of, North Korea or a person listed in Annex IV to the Council Regulation.

Registration of ships

6B. Except under the authority of a licence granted by the Secretary of State under this article, it is an offence for a person to knowingly register a ship to North Korea or to obtain authorisation for a ship to use the flag of North Korea.

Access to ports

6C.—(1) Except under the authority of a licence granted by the Secretary of State under this article, it is an offence for a person (“P”) to provide access to ports in the United Kingdom to any ship that P knows or has reasonable cause to suspect—

- (a) is owned or controlled directly or indirectly by a person listed in Annex IV to the Council Regulation;
- (b) is carrying goods listed in article 3(3) to North Korea; or
- (c) is carrying goods listed in article 5(2) from North Korea.

(2) Paragraph (1) does not apply if—

- (a) access to a port is needed by the ship in a case of emergency;
- (b) the ship is coming into port for inspection; or
- (c) the ship is returning to its port of origin.”.

10. For paragraphs (1) and (2) of article 8, substitute—

“(1) An authorised officer who has reasonable grounds to suspect that the cargo of any ship contains goods listed in article 3(3) may exercise the powers set out in Part 1 of Schedule 3 for the purpose of investigating, preventing or suppressing the commission of an offence under article 3(1).

(1A) An authorised officer who has reasonable grounds to suspect that the cargo of any ship contains goods listed in article 5(2) may exercise the powers set out in Part 1 of Schedule 3 for the purpose of investigating, preventing or suppressing the commission of an offence under article 5(1).

(2) Those powers are exercisable in relation to—

- (a) any ship in the territory of the United Kingdom, including the territorial sea adjacent to the United Kingdom;
- (b) any United Kingdom ship where it is seaward of the limits of the territorial sea of any state; and
- (c) any United Kingdom ship, not being a ship falling within paragraph (2)(a) or (b) above, with authority of the Secretary of State in accordance with article 8B.”.

11. In article 8A(1), for “article 8(1)” substitute “article 8(1) or (1A)”.

12. In article 9(1), for “in contravention of article 3(1) or 5(1)” substitute “to commit an offence under article 3(1) or 5(1)”.

13. In article 10(1), for “in contravention of article 3(1) or 5(1)” substitute “to commit an offence under article 3(1) or 5(1)”.

14. In article 13(1)(a), for “article 3(3) or 5(3)” substitute “article 3(1) or 5(1)”.

15. In article 14(1), for “article 3(3), 4(3), 5(3) or 6(3)” substitute “article 3(1), 5(1), 6(1), 6(2), 6A, 6B or 6C(1)”.

16. In paragraph 3 of Schedule 3 for “article 3(3) or 5(3)” substitute “article 3(1) or 5(1)”.

17. For paragraph 4 of Schedule 3 substitute—

“4. If an authorised officer identifies on the ship any goods the carriage of which to North Korea constitutes an offence under article 3(1) or the carriage of which from North Korea constitutes an offence under article 5(1), the authorised officer may seize the goods, detain them and dispose of them, either by destroying them or in such other manner as the authorised officer may decide.”.

18. In paragraph 12(4)(a) of Schedule 3 for “article 3(3) or 5(3)” substitute “article 3(1) or 5(1)”.

19. For Schedule 4 substitute—

“SCHEDULE 4

Lists of WMD goods prohibited from being supplied to or procured from North Korea pursuant to Security Council resolution 1718 (2006), Security Council resolution 2087 (2013) and Security Council resolution 2270 (2016)

S/2016/308	4 April 2016	List of items, materials, equipment, goods and technology related to WMD-related items and identified and designated as sensitive goods pursuant to resolution 2270 (2016)
S/2014/253	8 April 2014	List of items, materials, equipment, goods and technology related to ballistic missile programmes pursuant to resolution 2087 (2013)
INFCIRC/254/Rev.12/Part1	13 November	Pursuant to paragraph 5(b) of resolution

	2013	2087 (2013), the items contained in this document are subject to the provisions of paragraph 8(a), 8(b) and 8(c) of resolution 1718 (2006)
INFCIRC/254/Rev.9/Part2	13 November 2013	Pursuant to paragraph 5(b) of resolution 2087 (2013), the items contained in this document are subject to the provisions of paragraph 8(a), 8(b) and 8(c) of resolution 1718 (2006)
INFCIRC/254/Rev.11/Part1	12 November 2012	Pursuant to paragraph 5(b) of resolution 2087 (2013), the items contained in this document are subject to the provisions of paragraph 8(a), 8(b) and 8(c) of resolution 1718 (2006)
INFCIRC/254/Rev.8/Part2	30 June 2010	Pursuant to paragraph 5(b) of resolution 2087 (2013), the items contained in this document are subject to the provisions of paragraph 8(a), 8(b) and 8(c) of resolution 1718 (2006)
S/2006/853/CORR.1	14 November 2006	Corrigendum to the list of chemical and biological items, materials, equipment, goods and technologies related to other weapons of mass destruction programmes subject to the provisions of paragraph 8(a), 8(b) and 8(c) of resolution 1718 (2006)
S/2006/853	1 November 2006	Pursuant to a Committee decision, list of chemical and biological items, materials, equipment, goods and technologies related to other weapons of mass destruction programmes subject to the provisions of paragraph 8(a), 8(b) and 8(c) of resolution 1718 (2006)”

Amendment of the Iran Order

20. The Iran Order is amended in accordance with articles 21 and 22.

21. In article 2, in the definition of “Council Regulation”(a), after “Iran” insert “, as amended from time to time”.

22. In article 4B(b), for paragraph (3) substitute—

“(3) A person is not guilty of an offence under article 4(1) or 4A(1) where the procurement, supply, delivery or exportation of the goods was authorised by a licence or authorisation granted by the Secretary of State under any other enactment or instrument.”.

Richard Tilbrook
Clerk of the Privy Council

(a) As inserted by S.I. 2016/378, article 2(2)(a).

(b) As inserted by S.I. 2016/378, article 2(5).

EXPLANATORY NOTE

(This note is not part of the Order)

Articles 3 to 19 of this Order amend the North Korea (United Nations Sanctions) Order 2009 (S.I. 2009/1749), as amended, giving effect to certain aspects of further United Nations sanctions imposed against North Korea by the United Nations Security Council in resolution 2270, adopted on 2nd March 2016.

In particular, this Order amends the offences related to carriage of goods to and from North Korea, and broadens the categories of goods to which offences apply. It also broadens the offences under the Order in relation to supplying services to North Korean ships. New offences are created in respect of leasing, chartering or provision of crew services, registration of ships, and access to ports.

Articles 21 and 22 of this Order make minor amendments to provisions of the Iran (United Nations Sanctions) Order 2009 (S.I. 2009/886), which were inserted by S.I. 2016/378. As these articles rectify omissions in S.I. 2016/378, this Order is being issued free of charge to recipients of S.I. 2016/378.

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£6.00

UK2016110815 11/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/1119>

ISBN 978-0-11-115155-6



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