

EXPLANATORY MEMORANDUM TO
THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA (SANCTIONS)
(OVERSEAS TERRITORIES) (AMENDMENT) ORDER 2016

2016 No. 630

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 amends the Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) Order 2012 (S.I. 2012/3066). It gives effect in specified Overseas Territories to additional sanctions imposed by United Nations Security Council Resolution 2270 (2016) (“UNSCR 2270”). It also reflects the implementation of these sanctions by the European Union in Council Regulation (EC) 329/2007, which has been amended by Council Regulation (EU) 2016/682 of 29 April 2016.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Order comes into force on the day after the day on which it is laid in Parliament. The Order implements additional sanctions against North Korea set out in UNSCR 2270, which was adopted on 2 March 2016. The measures UNSCR 2270 impose include an obligation on the United Kingdom to ensure that certain existing joint ventures, ownership interests and corresponding banking relationships with DPRK banks are terminated. It is therefore consistent with the United Kingdom’s international obligations that the Order comes into force as soon as possible.

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.

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 the instrument is not subject to parliamentary procedure, no statement is required.

7. Policy background

7.1 In response to the nuclear test on 6 January and satellite launch using ballistic missile technology on 7 February 2016, the United Nations Security Council adopted Security Council Resolution 2270 (2016) (“UNSCR 2270”), which imposed further sanctions measures against the DPRK. This was the DPRK’s fourth nuclear test since 2006 and was a serious violation of a number of existing UNSCRs.

7.2 UNSCR 2270 expands and strengthens the sanctions against DPRK through: increasing inspections of vessels which may be carrying prohibited goods from or to North Korea; adding new sectoral prohibitions on the export of coal, minerals, iron ore, gold, other metals; providing an import ban on aviation fuel; requiring the mandatory closing of financial sector entities and banks suspected of contributing to the DPRK’s nuclear or ballistic missile programmes and new prohibitions relating to the chartering of vessels and aircraft to North Korea and listed persons.

7.3 This Order gives effect to the additional sanctions in the Overseas Territories.

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 in the United Kingdom.

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, and European Union measures are monitored and reviewed by the Member States of the European Union. This Order will be reviewed and amended as appropriate following any further modifications to the sanctions regime by the United Nations and European Union.

13. Contact

- 13.1 Joanne Neenan at the Foreign and Commonwealth Office can answer any queries regarding the instrument. Telephone: 020 7008 3040. Email: joanne.neenan@fco.gov.uk