

EXPLANATORY MEMORANDUM TO
THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA (SANCTIONS)
(OVERSEAS TERRITORIES) (AMENDMENT) (No. 3) ORDER 2016

2016 No. 991

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 The Democratic People’s Republic of Korea (Sanctions) (Overseas Territories) Order 2012 (S.I. 2012/3066) (“the principal Order”) gives appropriate effect to United Nations (“UN”) and European Union (“EU”) sanctions within specified Overseas Territories. The EU has recently made minor changes to the sanctions imposed by it against the Democratic People’s Republic of Korea (“DPRK”) and to the implementation of UN sanctions within the EU. This Order updates the principal Order to give effect to these minor changes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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 at this stage.

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.

4.3 United Nations and European Union sanctions against DPRK are given effect in the Territories in the Democratic People’s Republic of Korea (Sanctions) (Overseas

Territories) Order 2012 (S.I. 2012/3066). That Order was amended by the Democratic People's Republic of Korea (Sanctions) (Overseas Territories) (Amendment) Order 2016 (S.I. 2016/630), to implement sanctions adopted by the UN Security Council in Resolution 2270 ("UNSCR 2270").

- 4.4 Since UNSCR 2270, the European Union has adopted additional sanctions measures and made minor changes to the implementation by the European Union of the sanctions measures in UNSCR 2270. These were given effect in the Territories by the Democratic People's Republic of Korea (Sanctions) (Overseas Territories) (Amendment) (No. 2) Order 2016 (S.I. 2016/769).
- 4.5 Most recently, the European Union has made some minor changes to the sanctions measures in Council Decision (CFSP) 2016/849, as amended by Council Decision (CFSP) 2016/1341, and Council Regulation (EC) No 329/2007, as most recently amended by Council Regulation (EU) 2016/1333. This Order reflects those changes.

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

What is being done and why

- 7.1 In response to a nuclear test by the DPRK on 6 January 2016, and a launch using ballistic missile technology on 7 February 2016, the United Nations Security Council adopted 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 UN Security Council resolutions.
- 7.2 Since UNSCR 2270, the European Union has adopted additional sanctions measures and made minor changes to the implementation by the European Union of the sanctions measures in UNSCR 2270. Sanctions are a key foreign policy tool to coerce and constrain those targeted by the sanctions measures in order to influence and promote changes in unacceptable behaviour by States, individuals and entities.
- 7.3 This Order is necessary because it is UK Government policy to ensure that the Overseas Territories implement, as appropriate, sanctions adopted at the UN and in the EU, in order to ensure compliance with the UK's international obligations and

policy commitments. Furthermore, in doing so, the UK ensures that the sanctions measures have maximum possible effect, thereby strengthening the sanctions regimes and supporting underlying UK policy objectives. This Order applies to all Overseas Territories except Bermuda and Gibraltar. Implementation in Bermuda is through local legislation and in Gibraltar is through application of the relevant EU Regulations and local legislation.

Consolidation

- 7.4 The Foreign and Commonwealth Office will keep the need for consolidation of the principal Order under review.

8. Consultation outcome

- 8.1 The Overseas Territories have been consulted on the Order in draft and there were no objections to the Order being made.

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 Nicola Smith at the Foreign and Commonwealth Office can answer any queries regarding the instrument. Telephone: 020 7008 1672. Email: nicola.smith@fco.gov.uk