
EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends with modifications the Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/411) (“the DPRK Regulations”) as amended from time to time to all British overseas territories except Bermuda and Gibraltar (which implement sanctions under their own legislative arrangements). It also implements in those territories the travel ban in respect of UN designated persons required by paragraph 8(e) of resolution 1718 (2006) adopted by the Security Council on 14 October 2006 (which in the United Kingdom is implemented by way of the Immigration Act 1971 (c.77) rather than the DPRK Regulations).

Section 63(3)(c) of the Sanctions and Anti-Money Laundering Act 2018 (c.13) (“the Sanctions Act”) provides that Her Majesty may by Order in Council provide for any provision of Part 1 of that Act, or any regulations under Part 1 of that Act, to extend with or without modifications to any of the British overseas territories. Section 63(4) provides that this includes the power to extend any regulations as amended from time to time.

Section 1 of the United Nations Act 1946 (c.45) provides that Her Majesty may by Order in Council make such provision as appears to Her necessary or expedient for enabling the effective application of certain measures where, under Article 41 of the Charter of the United Nations, the Security Council has called upon Her Majesty’s Government in the United Kingdom to apply such measures to give effect to any decision of that Council. In accordance with subsection (2) of that section, such Orders in Council may extend to the British overseas territories.

The DPRK Regulations were made under Part 1 of the Sanctions Act to establish a sanctions regime in relation to the Democratic People’s Republic of Korea (“DPRK”) for the purposes of implementing many of the obligations that the United Kingdom has under UN Security Council Resolution 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) and 2397 (2017). They also have the purposes of restricting the ability of the DPRK to carry on its nuclear, biological or chemical weapons programmes, other weapons of mass destruction programmes and ballistic missile programmes, to promote the abandonment of those programmes and the decommissioning of the weapons, and to promote peace, security and stability on the Korean peninsula.

The DPRK Regulations, as modified and extended to the British overseas territories listed in Schedule 1 by this Order (“the modified Regulations”), provide that a person named by the UN or designated by the Secretary of State for being, or having been, involved in certain activities, is a designated person for the purposes of the modified Regulations. Designated persons are subject to various sanctions measures set out in the modified Regulations. The modified Regulations also provide for certain ships specified by the Secretary of State to be subject to various sanctions measures. The modified Regulations make provision in respect of publishing lists of designated persons and specified ships.

Chapter 1 of Part 4 of the modified Regulations provides for designated persons to be made subject to financial sanctions, including having their funds and/or economic resources frozen. Chapter 2 of Part 4 imposes further restrictions on the activities of designated persons and also on financial services, commercial activities and investment.

Part 5 of the modified Regulations provides that persons designated by the Secretary of State in the United Kingdom – who as a consequence are ‘excluded persons’ under section 8B of the Immigration Act 1971 – must not enter, transit or remain in the British overseas territories set out in Schedule 1 to this Order.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 6 of the modified Regulations deals with trade restrictions on specified goods and technology. Related controls are also imposed on the provision of financial services and funds, technical assistance and brokering services. Chapter 1 deals with the restrictions on military and dual-use goods and technology, and other goods and technology related to arms and weapons of mass destruction (all as defined in the Regulations, including Schedule 2). Chapter 2 deals with restrictions on other goods. Chapter 3 deals with restrictions on certain services related to ships and aircraft.

Part 7 of the modified Regulations deals with aircraft sanctions and Part 8 with shipping sanctions.

Part 9 of the modified Regulations provide for certain exceptions to this sanctions regime (for example to allow for frozen accounts to be credited with interest or other earnings and to allow acts done for the purpose of national security or the prevention of serious crime). The Governor of a British overseas territory to which the modified Regulations extend may, with the consent of the Secretary of State, issue a licence or direction in respect of activities that would otherwise be prohibited under the modified Regulations. Schedule 3 sets out further provision about the purposes for which the Governor may issue a financial sanctions licence in some cases.

The modified Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime. The modified Regulations also prescribe enforcement powers in relation to suspected ships, aircraft or vehicles, and for the issue of a search warrant. The modified Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in the modified Regulations and prescribe the penalties that apply to such offences.

The modifications set out in Schedule 2 to this Order include modifications to provisions in the Regulations which are prospectively amended by the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591) and the Sanctions (EU Exit) (Miscellaneous Amendments) (No. 3) Regulations 2020 (S.I. 2020/950) (“the amending regulations”). Therefore, article 1(1) provides that this Order comes into force immediately after both the amending regulations have come into force in the United Kingdom. The amending regulations will be brought into force on a day appointed by the Secretary of State in regulations under section 56 of the Sanctions Act.

This Order also extends to the territories for the purposes of the modified Regulations specific provisions of Part 1 of the Sanctions Act, namely provisions relating to protection for acts done for purposes of compliance, Crown application and saving for prerogative powers.

This Order also provides that, subject to certain exceptions, UN designated persons must not enter, transit or remain in the territories.

An Impact Assessment has not been prepared for this instrument: the territorial extent of the instrument and modified Regulations is the British overseas territories listed in Schedule 1, and no, or no significant, impact is foreseen on the private, voluntary or public sectors in the United Kingdom.