Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2017 No. 218

CRIMINAL LAW

The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017

Made - - - -	*at 1.30 p.m. on 28th February 2017*
Laid before Parliament	*at 5.00 p.m. on 28th February 2017*
Coming into force - -	*1st March 2017*

The Treasury are designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to restrictive measures against persons or bodies listed by an international organisation.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Treasury that it is expedient for any reference to an Annex to Council Regulation (EC) No. 329/2007 of 27th March 2007 [F3] concerning restrictive measures against the Democratic People's Republic of Korea to be construed as a reference to that Annex as amended from time to time.

The Treasury, in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972, make the following Regulations.

F1 S.I. 2010/1834.

F2 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), **section 27(1)(a)** and the European Union (Amendment) Act 2008 (c.7), **Sch**edule, Part 1. Paragraph 1A of Schedule 2 to the 1972 Act was inserted by the Legislative and Regulatory Reform Act 2006, section 28 and amended by S.I. 2007/1388 and the European Union (Amendment) Act 2008, Schedule, Part 1.

F3 OJ L 88 29.3.2007, p.1, as amended most recently by Council Regulation (EU) No. 682/2016 of 3rd May 2016 (OJ L 117 5.4.2016, p.1), Council Regulation (EU) No. 841/2016 of 28th May 2016 (OJ L 141 28.05.2016, p.36), and Council Regulation (EU) No. 2017/330 of 27th February 2017 (OJ L 50 28.2.2017, p1).

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017 and come into force on 1st March 2017.

(2) An offence under these Regulations may be committed by conduct wholly or partly outside the United Kingdom by—

(a) a UK national, or

(b) a body incorporated or constituted under the law of any part of the United Kingdom.

(3) In paragraph (2)—

"conduct" includes acts and omissions;

"UK national" means—

(a) a British citizen,

(b) a British overseas territories citizen who acquired their citizenship from a connection with Gibraltar, or

(c) a British subject under Part 4 of the British Nationality Act 1981 [F4] (British subjects) with the right of abode in the United Kingdom.

F4 1981 c.61. Part 4 was amended by the British Overseas Territories Act 2002 (c.8), **section 1(1)(b)** and the Nationality, Immigration and Asylum Act 2002 (c.41), **sections 15** and 161, Schedule 2, paragraph 1(i) and Schedule 9.

Interpretation

2.—(1) In these Regulations—

"the 2000 Act" means the Financial Services and Markets Act 2000 [F5];

"the Council Regulation" means **[**[F6]Council Regulation (EU) 2017/1509 of 30th August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007"**]**, and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time;

"designated person" means a person, entity or body listed in **[**[F7]Annex XIII, XV, XVI or XVII**]** to the Council Regulation;

"document" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;

"relevant institution" means—

(a) a person who has permission under Part 4A of the 2000 Act (permission to carry on regulated activities) [F8];

(b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act [F9] (EEA passport rights) which has permission under paragraph 15 of that Schedule [F10] (as a result of qualifying for authorisation under paragraph 12 of that Schedule [F11]) to accept deposits; or

(c) an undertaking which by way of business operates a currency exchange office, transmits money (or any representations of monetary value) by any means or cashes cheques which are made payable to customers.

(2) The definition of "relevant institution" in paragraph (1) must be read with—

(a) section 22 of the 2000 Act [F12] (regulated activities),

(b) any relevant order made under that section [F13], and

(c) Schedule 2 to the 2000 Act [F14] (regulated activities).

(3) Any expression used both in these Regulations and in the Council Regulation has the meaning that it bears in the Council Regulation.

F5 2000 c.8.
F6 Words in reg. 2 substituted (6.9.2017) by The Democratic Peoples Republic of Korea (European Union Financial Sanctions) (Amendment) (No. 2) Regulations 2017 (S.I. 2017/883), regs. 1(1), **2(2)(a)** (with reg. 3)
F7 Words in reg. 2 substituted (6.9.2017) by The Democratic Peoples Republic of Korea (European Union Financial Sanctions) (Amendment) (No. 2) Regulations 2017 (S.I. 2017/883), regs. 1(1), **2(2)(b)** (with reg. 3)
F8 Part 4A was inserted by the Financial Services Act 2012 (c.21), **section 11(2)** and amended most recently by S.I. 2015/910.
F9 As amended by S.I. 2006/3221 and S.I. 2013/3115.
F10 As amended by S.I. 2003/2066, **S.I**. 2007/3253, S.I. 2012/1906, **S.I**. 2013/1881 and S.I. 2015/575.
F11 As amended by S.I. 2007/126, **S.I**. 2007/3253 and S.I. 2012/1906.
F12 Section 22 was amended by the Financial Services Act 2012, section 7(1).
F13 See S.I. 2001/544 as amended, most recently by S.I. 2015/910.
F14 Schedule 2 was amended by the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15, **Schedule 2**, paragraph 1, the Regulation of Financial Services (Land Transactions) Act 2005 (c.24), **section 1**, the Financial Services Act 2012, section 7(2) to (5) and section 8 and by S.I. 2013/1881.

PART 2

Funds and Economic Resources

Freezing of funds and economic resources

3.—(1) A person ("P") must not deal with funds or economic resources belonging to, or owned, held or controlled by, a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

(2) In paragraph (1) "deal with" means—

(a) in relation to funds—

(i) use, alter, move, allow access to or transfer;

(ii) deal with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or

(iii) make any other change that would enable use, including portfolio management; and

(b) in relation to economic resources, exchange, or use in exchange, for funds, goods or services.

(3) Paragraph (1) is subject to regulation 23 (licences).

Making funds available to a designated person

4.—(1) A person ("P") must not make funds available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to regulations 9 (credits to a frozen account) and 23.

Making funds available for the benefit of a designated person

5.—(1) A person ("P") must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) For the purposes of this regulation—

(a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

(b) "financial benefit" includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.

(3) Paragraph (1) is subject to regulations 9 and 23.

Making economic resources available to a designated person

6.—(1) A person ("P") must not make economic resources available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect—

(a) that P is making the economic resources so available, and

(b) that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

(2) Paragraph (1) is subject to regulation 23.

Making economic resources available for the benefit of a designated person

7.—(1) A person ("P") must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

(2) For the purposes of this regulation—

(a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

(b) "financial benefit" includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.

(3) Paragraph (1) is subject to regulation 23.

Funds and economic resources: Government of Democratic People's Republic of Korea and Worker's Party of Korea

[F15]8. . . . . . .

F15 Reg. 8 omitted (6.9.2017) by virtue of The Democratic Peoples Republic of Korea (European Union Financial Sanctions) (Amendment) (No. 2) Regulations 2017 (S.I. 2017/883), regs. 1(1), **2(3)** (with reg. 3)

[F16Persons listed in Annex XVII of the Council Regulation, the Foreign Trade Bank and the Korean National Insurance Company

8A.—(1) The prohibitions in regulations 3 to 7, as they relate to persons, entities or bodies listed in Annex XVII of the Council Regulation, do not apply where the funds or economic resources are required to carry out the activities of a diplomatic or consular mission of the Democratic People's Republic of Korea, including its missions to the United Nations and its specialised agencies and related organisations.

(2) The prohibitions in regulations 3 to 7 do not apply with regard to funds and economic resources belonging or made available to the Foreign Trade Bank of the Democratic People's Republic of Korea or to the Korean National Insurance Company provided that such funds and economic resources are intended to be used exclusively for the official purposes of a diplomatic or consular mission in the Democratic People's Republic of Korea or for humanitarian assistance activities undertaken by, or in coordination with, the United Nations.**]**

F16 Reg. 8A inserted (6.9.2017) by The Democratic Peoples Republic of Korea (European Union Financial Sanctions) (Amendment) (No. 2) Regulations 2017 (S.I. 2017/883), regs. 1(1), **2(4)** (with reg. 3)

Credits to a frozen account

9.—(1) The prohibitions in regulations 4 and 5 are not contravened by a person who credits a frozen account with—

(a) interest or other earnings due on the account, or

(b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.

(2) The prohibitions in regulations 4 and 5 do not prevent a relevant institution from crediting a frozen account where it receives funds transferred to the account.

(3) A relevant institution must inform the Treasury without delay if it credits a frozen account in accordance with paragraph (1)(b) or (2).

(4) In this regulation "frozen account" means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person.

PART 3

Restrictions on Financial Services and Markets

Credit and financial institutions: accounts and correspondent banking relationships

10.—(1) A credit or financial institution falling within the scope of **[**F17Article 1**]** of the Council Regulation must not—

(a) open a new bank account with,

(b) establish a new correspondent banking relationship with,

(c) establish a new joint venture with, or

(d) take an ownership interest in,

a person falling within paragraph (2), if the credit or financial institution knows or has reasonable cause to suspect that the account, relationship or venture is with, or the ownership interest is in, a person falling within paragraph (2).