STATUTORY INSTRUMENTS

2016 No. 769

OVERSEAS TERRITORIES

The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) (Amendment) (No. 2) Order 2016

Made - - - -	*13th July 2016*
Laid before Parliament	*20th July 2016*
Coming into force - -	*10th August 2016*

At the Court at Buckingham Palace, the 13th day of July 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 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:

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(**1**), section 112 of the Saint Helena Act 1833(**2**), the British Settlements Acts 1887 and 1945(**3**), and all of the other powers enabling Her to do so, 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 Democratic People's Republic of Korea (Sanctions) (Overseas Territories) (Amendment) (No. 2) Order 2016 and comes into force on 10th August 2016.

(2) In this Order, "the principal Order" means the Democratic People's Republic of Korea (Sanctions) (Overseas Territories) Order 2012(**4**).

(3) This Order extends to the territories listed in Schedule 1 to the principal Order.

(**1**) 1946 c.45.
(**2**) 1833 c.85.
(**3**) 1887 c.54 and 1945 c.7.
(**4**) S.I. 2012/3066, amended by S.I. 2013/1718 and S.I. 2016/630.

Amendment of the principal Order

2. The principal Order is amended in accordance with articles 3 to 17.

3. In article 3(1)—

(a) in the appropriate places, insert—

""investment services" means—

(i) reception and transmission of orders in relation to one or more financial instruments,

(ii) execution of orders on behalf of clients,

(iii) dealing on own account,

(iv) portfolio management,

(v) investment advice,

(vi) underwriting of financial instruments,

(vii) placing of financial instruments, regardless of whether on a firm commitment basis, or

(viii) any service in relation to the admission to trading on a regulated market or trading on a multilateral trading facility;",

""payee" means a person that is the intended recipient of transferred funds;",

""payer" means a person—

(i) that holds a payment account and allows a transfer of funds from that payment account, or

(ii) that gives a transfer of funds order;",

""payment service provider" means a person providing transfer of funds services;", and

""petroleum products" means items listed in Annex If to the Council Regulation;"; and

(b) for "financing and financial assistance" (in both places) substitute "financing or financial assistance".

4. In the heading to article 7, for "and gold and ores" substitute "gold and ores, and petroleum products".

5. In article 7, for paragraphs (3) to (5), substitute—

"(3) It is an offence for a person to knowingly obtain from North Korea—

(a) coal, iron and iron ore;

(b) gold and ores;

(c) luxury goods; or

(d) petroleum products,

regardless of whether the goods originated in North Korea.

(3A) Paragraphs (2) and (3) in relation to luxury goods do not apply to—

(a) personal effects of a person travelling to or from North Korea;

(b) goods of a non-commercial nature for personal use contained in the luggage of a person travelling to or from North Korea;

(c) goods necessary for the official purposes of diplomatic or consular missions in North Korea or the personal effects of their staff; or

(d) goods necessary for the official purposes of international organisations enjoying immunities in North Korea in accordance with international law or the personal effects of their staff.

(4) It is an offence for a relevant person to knowingly use a ship, aircraft or vehicle falling within paragraph (7) for the carriage of restricted goods, luxury goods or aviation fuel if the carriage is, or forms part of, carriage from any place outside North Korea to any destination in North Korea.

(5) It is an offence for a relevant person to knowingly use a ship, aircraft or vehicle falling within paragraph (7) for the carriage of restricted goods, coal, iron and iron ore, or gold and ores, if the carriage is, or forms part of, carriage from any place in North Korea to any destination outside North Korea.".

6. In article 10(1) for "article 7(3) or (5)" substitute "article 7(4) or (5)".

7. For article 10G, substitute—

"**10G.**—(1) A credit or financial institution ("P") commits an offence if P provides financing or financial assistance for trade which P knows or has reasonable cause to suspect may contribute to—

(a) the nuclear-related, other weapons of mass destruction-related, or ballistic missile-related programmes of North Korea; or

(b) an activity prohibited under this Order.

(2) Paragraph (1) does not apply if—

(a) the contract or agreement to provide financing or financial assistance was concluded prior to 10th August 2016; or

(b) the trade is in food, agricultural or medical equipment, or is for humanitarian purposes.".

8. For article 10J, substitute—

"**10J.**—(1) It is an offence for a person ("P") to provide access to ports in the Territory to any vessel that P knows or has reasonable cause to suspect—

(a) is owned or operated by North Korea;

(b) is owned or controlled directly or indirectly by a person listed in Annex IV to the Council Regulation;

(c) contains restricted goods, luxury goods, aviation fuel, gold and ores, coal, iron and iron ore, petroleum products or any other goods prohibited under this Order;

(d) has refused to be inspected for carriage of goods prohibited by this Order after such inspection has been authorised by the vessel's flag State; or

(e) is without nationality and has refused to be inspected for carriage of goods prohibited by this Order.

(2) Paragraph (1) does not apply if—

(a) access to a port is needed by the vessel in a case of emergency;

(b) the vessel is coming into port for inspection; or

(c) the vessel is returning to its port of origin.

(3) This article is subject to articles 11 and 12.".

9. After article 10K, insert—

"**Investment in commercial activity**

10L.—(1) A person ("P") commits an offence if P accepts or approves investment in any commercial activity knowing or having reasonable cause to suspect that such investment is made by—

(a) a person falling within paragraph (2);

(b) a person acting on behalf, or at the direction of, a person falling within paragraph (2); or

(c) a legal person owned or controlled by a person falling within paragraph (2).

(2) The following persons fall within this paragraph—

(a) the Government of North Korea, its public bodies, corporations and agencies;

(b) the Worker's Party of Korea;

(c) a North Korean national; or

(d) a person incorporated or constituted under the law of North Korea.

Joint ventures and ownership interests

10M.—(1) A person ("P") commits an offence if P—

(a) establishes a joint venture with; or

(b) takes or extends an ownership interest in, including by acquisition in full or the acquisition of shares and other securities,

a person referred to in paragraph (2), knowing or having reasonable cause to suspect that the joint venture or ownership interest is with or in such a person.

(2) Persons falling within this paragraph are persons referred to in article 10L(1)(a), (b) or (c) that are engaged in—

(a) North Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related activities or programmes; or

(b) activities in the sectors of mining, refining and chemical industries.

Financing or financial assistance to North Korean persons

10N. A person ("P") commits an offence if P grants financing or financial assistance knowing or having reasonable cause to suspect that it is granted to—

(a) a person incorporated or constituted under the law of North Korea; or

(b) a person acting on behalf or at the direction of, or a legal person owned or controlled by, a person referred to in sub-paragraph (a).

Provision of investment services

10O. A person ("P") commits an offence if P provides investment services knowing or having reasonable cause to suspect that such investment services are directly related to an activity prohibited under article 10M or 10N.

Transfers of funds to and from North Korea

10P.—(1) A person ("P") commits an offence if P transfers funds knowing or having reasonable cause to suspect that the transfer is to or from North Korea.