EXPLANATORY MEMORANDUM TO

THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (EUROPEAN UNION FINANCIAL SANCTIONS) (AMENDMENT) (No. 2) REGULATIONS 2017

2017 No. 883

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments

2. Purpose of the instrument

2.1 This instrument amends the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017 ("the 2017 Regulations") to ensure our domestic enforcement regime keeps tracks of changes made at EU level. Council Regulation (EU) 2017/1509 ("the Council Regulation") repeals and replaces the old Council Regulation 2007/329 and re-numbers Annexes in which persons are listed as being subject to financial sanctions. This instrument picks up those and other changes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These Regulations have been laid before Parliament less than 21 days before they come into force. This is necessary to ensure that HM Treasury is able to enforce the financial sanctions measures which were published in the Official Journal on 31 August 2017 and came into force in the EU on 1st September 2017. It was not possible to finalise or lay these Regulations before Council Regulation (EU) 2017/330 was published in the Official Journal. If these Regulations were not to come into force until 21 days after having been laid before Parliament, persons within the UK who breach the additional measures would not face enforcement consequences for such breaches. Given that financial sanctions are a matter of international peace and security, and that the UK has obligations under EU law and the UN Charter to put them in place and enforce them, it is necessary to do so as swiftly as possible.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, 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 These regulations have been made under section 2(2) of the European Communities Act 1972, to ensure that the enforcement provisions apply to the changes made by Council Regulation (EU) No 2017/330.

5. Extent and Territorial Application

5.1 These Regulations extend to the whole of the United Kingdom.

5.2 The 2017 Regulations which these Regulations amend apply to the whole of the United Kingdom, and outside the United Kingdom to any UK national or any body incorporated in the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 On 30th August 2017, the Council of the European Union adopted Council Regulation (EU) 2017/1509 to consolidate previous Regulations and repeal Regulation (EC) 2007/329.

7.2 The Democratic People's Republic of Korea ('DPRK') is the subject of sanctions, primarily in response to their involvement in nuclear proliferation and the development of ballistic missiles, imposed by the Security Council of the United Nations. These are given effect in the United Kingdom by the Council Regulation.

7.3 In response to DPRK's 5th nuclear missile test on 9 September 2016, the United Nations Security Council adopted a further resolution (UNSCR 2321) on 30 November 2016 imposing additional sanctions on DPRK. These additional measures were incorporated into the Council Regulation by Council Regulation (EU) No 2017/330, which took effect on 1st March 2017.

7.4 Council Regulations in this area oblige the UK to put enforcement provisions in place for breaches of the financial sanctions contained in EU law. Enforcement of the relevant EU law is now provided for by the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017 which came into force on 1st March 2017. But those Regulations refer to Council Regulation 2007/329 and persons designated under annexes to that Regulation. In the absence of the updates made by the Regulations to which this Memorandum applies, persons within the UK would face no enforcement consequences should they breach the financial sanctions consolidated in Council Regulation (EU) 2017/1509.

Consolidation

7.5 The amendments made by this regulation are not so extensive as to require consolidation at this time.

8. Consultation outcome

8.1 No consultation has been carried out in relation to these Regulations, which provide for enforcement of financial sanctions that have been themselves imposed by the Council Regulation.

9. Guidance

9.1 Guidance on the asset freezing and other financial sanctions measures in relation to DPRK is available on HM Treasury's website

(https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases). The Office of Financial Sanctions Implementation, within HM Treasury, operate a free subscription email service alerting subscribers to changes to the asset freezing regime, and to other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing and financial sanctions regimes.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible, because these regulations do not impose substantive requirements themselves.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for these regulations, because any impact results from the Council Regulation rather than these regulations which only relate to enforcement powers.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), HM Treasury works with the financial sector on the requirements for complying with the asset freezing and financial sanctions measures set out in the Council Regulation. HM Treasury have provided detailed guidance to assist business in complying with these measures.

12. Contact

12.1 The Office of Financial Sanctions Implementation (email: ofsi@hmtreasury.gsi.gov.uk) can answer and queries regarding the instrument.