EXPLANATORY MEMORANDUM TO

THE DEMOCTRATIC PEOPLE'S REPUBLIC OF KOREA (EUROPEAN UNION FINANCIAL SANCTIONS) (AMENDMENT) REGULATIONS 2016

2016 No. 578

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 These regulations update the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2013 ('the 2013 Regulations'), which provide for enforcement of the Council Regulation (EC) No 329/2007 dated 27th March 2007 ('the Council Regulation'). The amendments made by these regulations are necessary to enable enforcement actions to be taken under UK law in respect of some additional financial sanctions measures that were added to the Council Regulation on 4 May 2016.

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 additional financial sanctions measures which came into force on 4th May 2016. It was not possible to finalise or lay these regulations before that date as until 4th May 2016, as it was not certain what the additional financial sanctions measures would be. 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 these regulations are subject to the negative procedure and have 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, in order to make enforcement provisions in respect of the recent amendments to the Council Regulation.

5. Extent and Territorial Application

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

5.2 These regulations apply across the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 As these regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The Democratic People's Republic of Korea ('DPRK') is the subject of financial 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, which has direct effect.

7.2 In response to recent nuclear and missile tests, the United Nations Security Council adopted a further resolution (UNSCR 2270) imposing additional financial sanctions on DPRK. These additional measures were incorporated into the Council Regulation by Council Regulation (EC) No 2016/682, which took effect on 4th May 2016. The additional measures include new prohibitions on financial assistance to the Government of Korea or the Worker's Party of Korea (when these are being used to facilitate nuclear proliferation and ballistic missile programmes), new restrictions on the ability of UK economic operators to do business with DPRK economic operators, requirements for UK economic operators to cease to do such business, new restrictions on DPRK economic operators doing business in the UK, and new provisions to restrict financial support for trade (when the trade is facilitating nuclear proliferation and ballistic missile programmes).

7.3 The Council Regulation obliges the UK to put enforcement provisions in place for breaches of the financial sanctions contained in that Regulations. Enforcement of the Council Regulation is provided for by the 2013 Regulations. These regulations update the 2013 Regulations to include enforcement provisions relating to the additional measures imposed by the amended Council Regulation. In the absence of these updates, persons within the UK would face no enforcement consequences should they breach the additional measures.

Consolidation

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

8. Consultation outcome

8.1 These regulations give effect to the amendments made to the Council Regulation on 4 May 2016, which have already taken effect in UK law. Accordingly it was not considered necessary to consult.

9. Guidance

9.1 Guidance on the asset freezing and other financial sanctions measures in relation to North Korea is available on the Treasury's website (https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases). The Office of Financial Sanctions Implementation, within the 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. A notice explaining the Council Regulation is available on the Treasury website and was emailed to subscribers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible, because these regulations do not impose requirements themselves, but only put in place enforcement provisions in relation to activities which are prohibited by the directly effective Council Regulation.

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 provide for 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), the Treasury work with the financial sector on the requirements for complying with the asset freezing and financial sanctions measures set out in the Council Regulation. The Treasury have provided detailed guidance to assist business in complying with these measures.

12. Monitoring & review

12.1 The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breaches of the restrictions imposed by the Council Regulation if it is amended or repealed.

12.2 It is therefore not appropriate in the circumstances to make provision for further periodic review as contemplated in ss.28-32 of the Small Business Enterprise and Employment Act 2015.

13. Contact

13.1 The Office of Financial Sanctions Implementation at the Treasury (email: OFSI@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.