EXPLANATORY MEMORANDUM TO

THE NORTH KOREA AND IRAN (UNITED NATIONS SANCTIONS) (AMENDMENT) ORDER 2016

2016 No. 1119

1. Introduction

1.1 This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order gives effect to certain changes to the sanctions regime against North Korea as provided for in United Nations Security Council resolution 2270 of 2nd March 2016 ("UNSCR 2270"). In particular this Order amends prohibitions in the North Korea (United Nations Sanctions) Order 2009 (S.I. 2009/1749) ("North Korea principal Order") and creates certain new prohibitions.

2.2 This Order also makes minor amendments to the Iran (United Nations Sanctions) Order 2009 (S.I. 2009/886) ("the Iran principal Order").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The amendments in articles 21 and 22 of the Order amend aspects of the Iran principal Order which were introduced in S.I. 2016/378:

a) Article 21 of the Order amends the definition of "Council Regulation" in article 2(2) of the Iran principal Order so that it is a reference to that Regulation as amended from time to time.

b) Article 22 substitutes new article 4B(3) into the Iran principal Order. Existing article 4B(3) provides that no offence is committed under article 4A(1) of the Iran principal Order where certain activity has been licensed under the Export Control Order 2008 (S.I. 2008/3231). The paragraph substituted by this Order makes broader provision so that no offence is committed under article 4(1) or 4A(1) of the Iran principal Order where certain activity is licensed or authorised by the Secretary of State under any other enactment or instrument; this would include licences under the Export Control Order 2008 and other relevant legislation such as the Export Control (Iran Sanctions) Order 2016 (S.I. 2016/503).

3.2 It is acknowledged that such provision could have been made when the definition of "Council Regulation" and article 4B were inserted into the Iran principal Order by S.I. 2016/378. This Order will therefore be provided free of charge to all known recipients of S.I. 2016/378.

Other matters of interest to the House of Commons

3.3 As this instrument is not subject to any Parliamentary procedure, 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 The United Nations sanctions regime against North Korea is set out in a series of UN Security Council resolutions, the most recent being UNSCR 2270. The sanctions are given effect in the European Union by Council Decision 2016/849(CFSP) of 27 May 2016 (as amended most recently by Council Decision (CFSP) 2016/1341 of 4 August 2016) and Council Regulation (EC) No. 329/2007 (as amended most recently by Council Regulation (EU) 2016/1333).

4.2 The North Korea principal Order provides for the enforcement in the United Kingdom of certain aspects of the trade restrictions against North Korea, including prohibitions on the use of certain ships, aircraft and vehicles to carry specified goods to and from North Korea.

4.3 The current United Nations sanctions regime against Iran is set out in United Nations Security Council resolution 2231 of 20 July 2015. The sanctions are given effect in the European Union by Council Decision 2010/413/CFSP of 26 July 2010 (as amended most recently by Council Decision (CFSP) 2015/1863 of 18 October 2015) and Council Regulation (EU) No. 267/2012 (as amended most recently by Council Regulation (EU) 2015/1862 and Council Implementing Regulation (EU) 2015/1861 both of 18 October 2015, and Commission Implementing Regulation (EU) 2016/1375 of 29 July 2016) ("the Iran Council Regulation").

5. Extent and Territorial Application

5.1 The extent of the instrument is the whole of the United Kingdom.

5.2 The territorial application of the instrument is the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 As this Order is not subject to parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 United Nations sanctions have been in place against North Korea since 2006. In response to the nuclear test on 6 January 2016, and a launch using ballistic missile technology on 7 February 2016, the United Nations Security Council unanimously adopted UNSCR 2270, imposing further sanctions measures against North Korea. This was North Korea's fourth nuclear test since 2006 and was a serious violation of a number of existing UN Security Council Resolutions.

7.2 UNSCR 2270 expanded and strengthened the sanctions against North Korea. The amendments made by this Order reflect the revised package of sanctions and in particular, the Order:

a) amends the offences related to carriage of goods to and from North Korea and broadens the categories of goods to which offences apply;

b) broadens the offences in relation to supplying services to North Korean ships; and

c) creates new offences in respect of leasing, chartering or provisions of crew services, registration of ships, and access to ports.

7.3 The Order also updates and makes other minor amendments to the North Korea principal Order.

7.4 The Iran principal Order provides for the enforcement in the United Kingdom of certain aspects of the United Nations-imposed trade restrictions against Iran and contains prohibitions on the use of certain vessels, aircraft and vehicles to carry specified goods to and from Iran. Some of the provisions in the Iran principal Order apply with reference to goods listed in the Annexes to the Iran Council Regulation; these correspond to categories of goods subject to restrictions in the relevant United Nations Security Council resolution. The amendment in article 21 of this Order provides that the reference to the Iran Council Regulation is a reference to that Regulation as amended from time to time. This ensures that any changes to the items listed in the Annexes apply for the purposes of this Order.

7.5 The amendment in article 22 broadens the circumstances in which the offences under the Iran principal Order do not apply. It provides that, where the procurement, supply, delivery or exportation of specified goods has been licensed or authorised by the Secretary of State under any other enactment or instrument, the prohibitions on the use of ships, aircraft or vehicles to carry those goods set out in articles 4(1) and 4A(1) of the Iran principal Order do not apply.

Consolidation

7.6 The Foreign and Commonwealth Office will keep the need for consolidation of the principal Order under review.

8. Consultation outcome

8.1 There was no public consultation in the United Kingdom.

9. Guidance

9.1 No guidance will be issued.

10. Impact

10.1 There is minimal impact on business, charities or voluntary bodies. The impact is that business must apply for authorisation for the activities referred to in paragraph 7.2(a)-(c) above, consistent with relevant provisions in UNSCR 2270.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

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

12. Monitoring & review

12.1 United Nations sanctions are monitored and reviewed by the United Nations Security Council. This Order will be reviewed and amended as appropriate following any further modifications to the sanctions regime by the United Nations.

13. Contact

13.1 Nicola Smith at the Foreign and Commonwealth Office can answer any queries regarding the instrument. Telephone: 020 7008 1672. Email: nicola.smith@fco.gov.uk