



STATUTORY INSTRUMENTS.

S.I. No. 78 of 2010



FINANCIAL TRANSFERS (IRAN) (PROHIBITION) ORDER 2010

(Prn. A10/0284)

FINANCIAL TRANSFERS (IRAN) (PROHIBITION) ORDER 2010

I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by section 4 of the Financial Transfers Act 1992 (No. 27 of 1992) and for the purpose of giving full effect to Council Regulation (EC) No. 423/2007 of 19 April 2007¹, as amended, hereby order as follows:

1. This Order may be cited as the Financial Transfers (Iran) (Prohibition) Order 2010.

2. (1) In this Order “Council Regulation” means Council Regulation (EC) No. 423/2007 of 19 April 2007¹, as amended by—

(a) Council Regulation (EC) No. 618/2007 of 5 June 2007²,

(b) Commission Regulation (EC) No. 116/2008 of 28 January 2008³ and the Corrigendum to that Regulation⁴,

(c) Commission Regulation (EC) No. 219/2008 of 11 March 2008⁵,

(d) Council Regulation (EC) No. 1110/2008 of 10 November 2008⁶,

(e) Council Regulation (EC) No. 680/2009 of 27 July 2009⁷ and the Corrigendum to that Regulation⁸,

(f) Council Regulation (EC) No. 1100/2009 of 17 November 2009⁹,

(g) Council Regulation (EU) No. 1228/2009 of 15 December 2009¹⁰,

and as implemented by—

(h) Council Decision 2007/242/EC of 23 April 2007¹¹.

(2) A word or expression which is used in this Order and which is also used in the Council Regulation has, unless the context otherwise requires, the same meaning in this Order as it has in the Council Regulation.

¹ OJ No. L.103, 20.4.07, p.1.

² OJ No. L.143, 6.6.07, p.1.

³ OJ No. L.35, 9.2.08, p.1.

⁴ OJ No. L.239, 6.9.08, p.55.

⁵ OJ No. L.68, 12.3.08, p.5.

⁶ OJ No. L.300, 11.11.08, p.1.

⁷ OJ No. L.197, 29.7.09, p.17.

⁸ OJ No. L.265, 9.10.09, p.42.

⁹ OJ No. L.303, 18.11.09, p.31.

¹⁰ OJ No. L.330, 16.12.09, p.49.

¹¹ OJ No. L.106, 24.4.07, p.51.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 26th February, 2010.

3. A person shall not make a financial transfer between the State and another country the effect of which would be to enable or facilitate, directly or indirectly, the doing of any thing which is a breach of the Council Regulation.

4. Notwithstanding Article 3 of this Order, a person who has received an authorisation under Article 3, 5, 6, 8, 9 or 10 of the Council Regulation may, subject to compliance with the terms and conditions of such authorisation, do such of the things referred to in Article 3 of this Order as are so authorised.

5. The Central Bank and Financial Services Authority of Ireland may, for the purpose of supervision of financial transfers and for the administration and enforcement of the provisions of this Order, give such directions or issue such instructions to a person as it sees fit.

6. A person to whom a direction has been given or an instruction issued under Article 5 of this Order shall comply with such direction or instruction.

7. A person shall not do anything to directly or indirectly assist in the circumvention of the provisions of this Order.

8. The Financial Transfers (Iran) (Prohibition) Order 2009 (S.I. No. 160 of 2009) is revoked.



GIVEN under my Official Seal,
22 February 2010.

BRIAN LENIHAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Statutory Instrument and does not purport to be a legal interpretation.)

This Order updates and replaces S.I. No. 160 of 2009 to give full effect to the following Council Regulations

- Council Regulation (EC) No. 680/2009 of 27 July 2009 which extends to 31 December 2010 the transitional period for derogation from the rules for implementation of the prior notification obligation in respect of certain shipments to and from Iran.
- Council Regulation (EC) No. 1100/2009 of 17 November 2009 which replaces the list of persons and entities set out in Annex V to Council Regulation (EC) No. 423/2007 to take account of, inter alia, changes in the Government and the administration in Iran.
- Council Regulation (EU) No. 1228/2009 of 15 December 2009 which inter alia amends Annex 1A and replaces Annex II of Council Regulation (EC) No. 423/2007 of 19 April 2007. Those Annexes list goods that could contribute to enrichment-related systems or development of nuclear weapons.

This updated Order provides for enforcement of financial sanctions contained in Council Regulation (EC) No. 423/2007 of 19 April 2007, as amended, concerning restrictive measures against Iran. The sanctions include a prohibition on financial assistance related to the import or export of goods and technology which could contribute to Iran's enrichment-related, reprocessing, or heavy water-related activities, to the development of nuclear weapon delivery systems, a ban on the provision of related services, a ban on investment related to such goods and technology, a ban on procurement of relevant goods and technology from Iran, the freezing of funds and economic resources of persons, entities and bodies engaged in, directly associated with or providing support for such activities or development and a ban on the provision to Iran of technical or financial assistance in relation to certain military equipment.

The Council Regulations impose certain obligations on credit and financial institutions in their dealings with credit and financial institutions in Iran, particularly Bank Saderat. These obligations include a requirement to ensure full information in the case of financial transactions and to report transactions which are suspected to be linked to proliferation financing (Article 11a) as inserted by Council Regulation (EC) No. 1110/2008 of 10 November 2008. There is also a requirement that Bank Saderat branches and subsidiaries should notify Competent Authorities of all funds transfers and for this data to be transferred, as appropriate, to the Competent Authorities of other Member States where the counterparts to such transactions are established.

The Order also provides that the Central Bank and Financial Services Authority of Ireland may issue instructions for the purpose of giving full effect to the financial sanctions and requires compliance with such instructions.

The Financial Transfers Act 1992 allows for control of financial transfers between the State and other countries, creates an offence for breach of the provisions of any Order made under it and provides for appropriate penalties.

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