



STATUTORY INSTRUMENTS.

S.I. No. 469 of 2009



FINANCIAL TRANSFERS (DEMOCRATIC REPUBLIC OF CONGO)
(PROHIBITION) ORDER 2009

(Prn. A9/1719)

FINANCIAL TRANSFERS (DEMOCRATIC REPUBLIC OF CONGO)
(PROHIBITION) ORDER 2009

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. 889/2005 of 13 June 2005¹, as amended, and Council Regulation (EC) No. 1183/2005 of 18 July 2005², as amended, hereby order as follows:

1. This Order may be cited as the Financial Transfers (Democratic Republic of Congo) (Prohibition) Order 2009.

2. (1) In this Order—

“Council Regulation (EC) No. 889/2005” means Council Regulation (EC) No. 889/2005 of 13 June 2005¹, as amended by—

(a) Council Regulation (EC) No. 1377/2007 of 26 November 2007³, and

(b) Council Regulation (EC) No. 666/2008 of 15 July 2008⁴;

“Council Regulation (EC) No. 1183/2005” means Council Regulation (EC) No. 1183/2005 of 18 July 2005², as amended by—

(a) Council Regulation (EC) No. 1791/2006 of 20 November 2006⁵, and

(b) Commission Regulation (EC) No. 242/2009 of 20 March 2009⁶.

(2) A word or expression which is used in this Order and which is also used in Council Regulation (EC) No. 889/2005 or in Council Regulation (EC) No. 1183/2005 has, unless the context otherwise requires, the same meaning in this Order as it has in the Council Regulation concerned.

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 Council Regulation (EC) No. 889/2005 or Council Regulation (EC) No. 1183/2005.

4. Notwithstanding Article 3 of this Order, a person who has received an authorisation under Article 3 of Council Regulation (EC) No. 889/2005 or an

¹OJ No. L.152, 15.6.05, p.1.

²OJ No. L.193, 23.7.05, p.1.

³OJ No. L.309, 27.11.07, p.1.

⁴OJ No. L.188, 16.7.08, p.1.

⁵OJ No. L.363, 20.12.06, p.1.

⁶OJ No. L.75, 21.3.09, p.8.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 4th December, 2009.*

authorisation under Article 3 or Article 4 of Council Regulation (EC) No. 1183/2005 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 (Democratic Republic of Congo) (Prohibition) Order 2008 (S.I. No. 476 of 2008) is revoked.



GIVEN under my Official Seal,
27 November 2009.

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 provides for enforcement of European Union financial sanctions prohibiting financial transfers between the State and another country, as outlined in Council Regulation (EC) No. 889/2005 of 13 June 2005 and Council Regulation (EC) No. 1183/2005 of 18 July 2005 concerning restrictive measures against the Democratic Republic of Congo (DRC). The sanctions stem from successive United Nations Security Council Resolutions which impose an arms embargo on the DRC and contain sanctions against persons acting in its violation.

The financial sanctions include a) a prohibition on financing or financial assistance related to military activities in the DRC and b) the freezing of funds and economic resources belonging to persons who impede international efforts in disarmament, demobilisation and reintegration of combatants and the provision of humanitarian assistance in the eastern part of the DRC.

This Order 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.

The Financial Transfers (Democratic Republic of Congo) (Prohibition) Order 2008 (S.I. No. 476 of 2008) is revoked.

The most recent amendment to these sanctions is contained in Commission Regulation (EC) No. 242/2009 of 20 March 2009 which replaces the list of natural and legal persons, entities or bodies subject to the asset-freeze and other restrictive financial measures under Council Regulation (EC) No. 1183/2005 of 18 July 2005.

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