



STATUTORY INSTRUMENTS.

S.I. No. 418 of 2010



EUROPEAN UNION (DEMOCRATIC PEOPLE'S REPUBLIC OF
KOREA) (FINANCIAL SANCTIONS) REGULATIONS 2010

(Prn. A10/1296)

EUROPEAN UNION (DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA) (FINANCIAL SANCTIONS) REGULATIONS 2010

I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Council Regulation (EC) No. 329/2007 of 27 March 2007¹, as last amended by Council Regulation (EU) No. 567/2010 of 29 June 2010², hereby make the following regulations:

1. These Regulations may be cited as the European Union (Democratic People's Republic of Korea) (Financial Sanctions) Regulations 2010.

2. (1) In these Regulations "Council Regulation" means Council Regulation (EC) No. 329/2007 of 27 March 2007¹, as amended by—

(a) Commission Regulation (EC) No. 117/2008 of 28 January 2008³ together with the Corrigendum⁴ to that Regulation,

(b) Commission Regulation (EC) No. 389/2009 of 12 May 2009⁵,

(c) Commission Regulation (EC) No. 689/2009 of 29 July 2009⁶,

(d) Council Regulation (EU) No. 1283/2009 of 22 December 2009⁷, and

(e) Council Regulation (EU) No. 567/2010 of 29 June 2010².

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

3. Subject to Regulation 4, a person commits an offence if he or she infringes the provisions of the Council Regulation as regards—

(a) the provision of financing or financial assistance,

(b) the freezing of funds or economic resources,

(c) the making available of funds or economic resources,

¹OJ No. L.88, 29.3.07, p.1.

²OJ No. L.163, 30.6.10, p.15.

³OJ No. L.35, 9.2.08, p.57.

⁴OJ No. L.239, 6.9.08, p.56.

⁵OJ No. L.118, 13.5.09, p.78.

⁶OJ No. L.199, 31.7.09, p.3.

⁷OJ No. L.346, 23.12.09, p.1.

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 7th September, 2010.

- (d) the due application of measures by credit and financial institutions in their activities with the institutions referred to in paragraph 2 of Article 11a of the Council Regulation,
- (e) the notification or supply of information to, or cooperation with, the competent authority, or
- (f) the participation in activities to circumvent the requirements of the Council Regulation as regards paragraph (a), (b), (c), (d) or (e).

4. A person who has received an authorisation under Article 5, 7 or 8 of the Council Regulation may, subject to compliance with the terms and conditions of it, do such of the things referred to in Regulation 3 as are so authorised.

5. The Central Bank and Financial Services Authority of Ireland may, for the purposes of the administration and enforcement of the provisions of these Regulations, give such directions or issue such instructions to a person as it sees fit.

6. A person who fails to comply with a direction given or an instruction issued under Regulation 5 commits an offence.

7. Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to the neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she committed the first mentioned offence.

8. A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months or to both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years or to both.

9. The European Communities (Democratic People's Republic of Korea) (Financial Sanctions) Regulations 2008 (S.I. No. 64 of 2008) are revoked.



GIVEN under my Official Seal,
1 September 2010.

BRIAN LENIHAN,
Minister for Finance.

EXPLANATORY NOTE

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

These Regulations update and replace S.I. No. 64 of 2008 to give full effect to the following Commission and Council Regulations:

- Commission Regulation (EC) No. 389/2009 of 12 May 2009 which designates certain legal entities whose funds and economic resources are to be frozen in accordance with article 6 of Council Regulation (EC) No. 329/2007 of 27 March 2007.
- Commission Regulation (EC) No. 689/2009 of 29 July 2009 which amends the list of banned goods and technology in Annex 1 of Council Regulation (EC) No. 329/2007 of 27 March 2007 and amends the list of persons and entities set out in Annex IV of that Council Regulation whose funds and economic resources are to be frozen.
- Council Regulation (EU) No. 1283/2009 of 22 December 2009 amends the lists of banned goods and technology in Annex I, persons and entities in Annex IV whose funds and economic resources are to be frozen and extends the category of persons and entities whose funds are to be frozen to include those listed in a new Annex V to Council Regulation (EC) No. 329/2007 of 27 March 2007.

The Council Regulation also imposes certain obligations on credit and financial institutions in their dealings with credit and financial institutions connected with The Democratic People's Republic of Korea (North Korea). 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.

- Council Regulation (EU) No. 567/2010 of 29 June 2010 amends the list of banned goods and technology in Annex 1a of Council Regulation 329/2007 of 27 March 2007.

These updated Regulations provide for enforcement of financial sanctions contained in Council Regulation (EC) No. 329/2007 of 27 March 2007 concerning restrictive measures against the Democratic People's Republic of Korea (North Korea). The sanctions include a prohibition on the provision of financial assistance related to the export of certain military equipment and to the sale of certain luxury goods to North Korea.

These Regulations also provide that the Central Bank and Financial Services Authority of Ireland (CBFSAI) may issue instructions for the purpose of giving full effect to the financial sanctions.

These Regulations create offences for breach of the Council Regulation or for failure to comply with the instructions of the CBFSAI with regard to implementation of the sanctions and provide for appropriate penalties.

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