STATUTORY INSTRUMENTS

S.I. No. 6 of 2009

FINANCIAL TRANSFERS (IRAQ) (PROHIBITION) ORDER 2008

(Prn. A9/0046)
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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. 1210/2003 of 7 July 2003, as amended, hereby order as follows:

1. This Order may be cited as the Financial Transfers (Iraq) (Prohibition) Order 2008.

2. (1) In this Order—


(i) Council Regulation (EC) No. 1799/2003 of 13 October 2003,


1OJ No. L.169, 8.7.03, p.6.
2OJ No. L.264, 15.10.03, p.12.
5OJ No. L.163, 30.4.04, p.100.
6OJ No. L.180, 15.5.04, p.9.
7OJ No. L.207, 10.6.04, p.10.
8OJ No. L.257, 4.8.04, p.4.
9OJ No. L.177, 9.7.05, p.32.
10OJ No. L.203, 4.8.05, p. 17.
11OJ No. L.138, 25.5.06, p.7.
12OJ No. L.59, 4.3.08, p.1.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 16th January, 2009.
(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.

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 6 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.


GIVEN under my Official Seal,
12 January 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 financial sanctions prohibiting financial transfers between the State and another country, as outlined in Council Regulation (EC) No. 1210/2003 of 7 July 2003, as amended, concerning restrictive measures against Iraq.

The sanctions include:

- a provision that proceeds from the sale of petroleum, petroleum products and natural gas from Iraq are deposited into the development fund for Iraq;
- a prohibition on the import or export of Iraqi cultural property into or from the Community, if they have been removed from Iraq;
- the freezing of funds and economic resources of the previous Government of Iraq or of named public bodies and corporations associated with it; and
- the freezing of funds and economic resources of former Iraqi President Saddam Hussein, his immediate family and his officials and close associates and their families, as listed under the Council Regulation.

The 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 most recent update to EU Financial Sanctions against Iraq is contained in Council Regulation (EC) No. 195/2008 of 3 March 2008, which extends the provision on legal immunities to 31 December 2008 and contains some technical amendments.