



STATUTORY INSTRUMENTS

S.I. No. 476 of 2008



FINANCIAL TRANSFERS (DEMOCRATIC REPUBLIC OF CONGO)
(PROHIBITION) ORDER 2008

(Prn. A8/1851)

FINANCIAL TRANSFERS (DEMOCRATIC REPUBLIC OF CONGO)
(PROHIBITION) ORDER 2008

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 2008.

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. 1791/2006 of 20 November 2006³,

(b) Council Regulation (EC) No. 1377/2007 of 26 November 2007⁴, and

(c) Council Regulation (EC) No. 666/2008 of 15 July 2008⁵;

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

(a) Commission Regulation (EC) No. 1824/2005 of 9 November 2005⁶,

(b) Commission Regulation (EC) No. 84/2006 of 18 January 2006⁷,

(c) Council Regulation (EC) No. 1791/2006 of 20 November 2006³,

(d) Commission Regulation (EC) No. 201/2007 of 23 February 2007⁸,

(e) Commission Regulation (EC) No. 400/2007 of 12 April 2007⁹,

(f) Commission Regulation (EC) No. 933/2007 of 3 August 2007¹⁰, and

¹OJ L152, 15.6.2005, p.1.

²OJ L193, 23.7.2005, p.1.

³OJ L363, 20.12.2006, p.1.

⁴OJ L309, 27.11.2007, p.1.

⁵OJ L188, 16.7.2008, p.1.

⁶OJ L294, 10.11.2005, p.3.

⁷OJ L14, 19.1.2006, p.14.

⁸OJ L59, 27.2.2007, p.73.

⁹OJ L98, 13.4.2007, p.20.

¹⁰OJ L204, 4.8.2007, p.5.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 25th November, 2008.*

(g) Commission Regulation (EC) No. 1096/2007 of 20 September 2007¹¹.

(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 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 2006 (S.I. No. 419 of 2006) is revoked.



GIVEN under my Official Seal
19 November 2008

BRIAN LENIHAN
Minister for Finance

¹¹OJ L246, 21.9.2007, p.29.

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 acting in violation of the UN arms embargo.

The most recent amendment to these sanctions is contained in Council Regulation (EC) No. 666/2008 of 15 July 2008 which specifies that the ban on providing financing or financial assistance applies to non-governmental entities and persons operating in the territory of the DRC. The Regulation also stipulates that provision of technical or financial assistance to any body other than the United Nations Organisation Mission in the DRC shall be notified in advance to the United Nations and in accordance with procedure.

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.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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