



STATUTORY INSTRUMENTS.

S.I. No. 419 of 2010

FINANCIAL TRANSFERS (DEMOCRATIC PEOPLE'S REPUBLIC OF
KOREA) (PROHIBITION) ORDER 2010

(Prn. A10/1297)

FINANCIAL TRANSFERS (DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA) (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. 329/2007 of 27 March 2007¹, as last amended by Council Regulation (EU) No. 567/2010 of 29 June 2010², hereby order as follows:

1. This Order may be cited as the Financial Transfers (Democratic People's Republic of Korea) (Prohibition) Order 2010.

2. (1) In this Order "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 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 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 Article 3 of this Order as are so authorised.

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.

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 People's Republic of Korea) (Prohibition) Order 2008 (S.I. No. 65 of 2008) is 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.)

This Order updates and replaces S.I. No. 65 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.

The updated Order provides 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.

The Order also provides 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.

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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