

Subsidiary Legislation made under s.3, 4,5, 6, 7 and 9.

**DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA  
SANCTIONS ORDER 2018**

**(LN. 2018/002)**

*Commencement*      **4.1.2018**

**Implementing-**  
Regulation (EU) No 2017/330

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*In exercise of the powers conferred upon him by sections 3, 4, 5, 6, 7 and 9 of the Export Control Act 2005, section 23(g)(i) of the Interpretation and General Clauses Act and all other enabling powers, for the purpose of implementing Council Regulation (EU) No 2017/330 of 27 February 2017, Council Regulation (EU) 2017/658 of 6 April 2017, Council Regulation (EU) 2017/1509 of 30 August 2017 (which also repeals Council Regulation (EC) No 329/2007 of 27 March 2007, Council Regulation (EU) 2017/1548 of 14 September 2017, Council Regulation (EU) 2017/1836 of 10 October 2017 and Council Regulation (EU) 2017/1858 of 16 October 2017, the Minister has made the following Order-*

## **Part 1 Preliminary**

### **Title.**

1. This Order may be cited as the Democratic People's Republic of Korea Sanctions Order 2018.

### **Commencement.**

2. The Order shall come into operation on the day of publication.

### **Interpretation.**

- 3.(1) In this Order-

“the Council Regulation” means Council Regulation (EU) 2017/1509 of 30th August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007, as may be amended from time to time;

“designated person” means a person, entity or body listed in Annex XIII, XV, XVI or XVII to the Council Regulation;

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;

“Member State” means a member state of the European Union;

“the Minister” means the Minister with responsibility for finance; and

“relevant institution” means-

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- (a) a person licenced or authorised under the Financial Services (Investment and Fiduciary Services) Act 1989 or the Financial Services (Banking Act) 1992 to carry on regulated activity; or
- (b) an undertaking that by way of business-
  - (i) operates a currency exchange office;
  - (ii) transmits money (or any representation of monetary value) by any means; or
  - (iii) cashes cheques that are made payable to customers.

(2) Any expression used both in this Order and in the Council Regulation has the meaning that it bears in the Council Regulation.

**Part 2  
Funds and Economic Resources**

**Freezing of funds and economic resources.**

4.(1) A person ("P") must not deal with funds or economic resources belonging to, or owned, held or controlled by, a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

(2) In subparagraph (1) "deal with" means-

- (a) in relation to funds-
  - (i) to use, alter, move, allow access to or transfer;
  - (ii) deal with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
  - (iii) make any other change that would enable use, including portfolio management; and
- (b) in relation to economic resources, exchange, or use in exchange, for funds, goods or services.

(3) Subparagraph (1) is subject to paragraph 24 (licences).

**Making funds available to a designated person.**

5.(1) A person ("P") must not make funds available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Subparagraph (1) is subject to paragraphs 10 (credits to a frozen account) and 24.

**Making funds available for the benefit of a designated person.**

6.(1) A person ("P") must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) For the purposes of this paragraph-

- (a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and
- (b) "financial benefit" includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.

(3) Subparagraph (1) is subject to paragraphs 10 and 24.

**Making economic resources available to a designated person.**

7.(1) A person ("P") must not make economic resources available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect-

- (a) that P is making the economic resources so available; and
- (b) that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

(2) Subparagraph (1) is subject to paragraph 24.

**Making economic resources available for the benefit of a designated person.**

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8.(1) A person ("P") must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

(2) For the purposes of this paragraph-

- (a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit; and
- (b) "financial benefit" includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.

(3) Subparagraph (1) is subject to paragraph 24.

**Persons listed in Annex XVII of the Council Regulation, the Foreign Trade Bank and the Korean National Insurance Company.**

9.(1) The prohibitions in paragraphs 4 to 8, as they relate to persons, entities or bodies listed in Annex XVII of the Council Regulation, do not apply where the funds or economic resources are required to carry out the activities of a diplomatic or consular mission of the Democratic People's Republic of Korea, including its missions to the United Nations and its specialised agencies and related organisations.

(2) The prohibitions in paragraphs 4 to 8 do not apply with regard to funds and economic resources belonging or made available to the Foreign Trade Bank of the Democratic People's Republic of Korea or to the Korean National Insurance Company provided that such funds and economic resources are intended to be used exclusively for the official purposes of a diplomatic or consular mission in the Democratic People's Republic of Korea or for humanitarian assistance activities undertaken by, or in coordination with, the United Nations.

**Credits to a frozen account.**

10.(1) The prohibitions in paragraphs 5 and 6 are not contravened by a person who credits a frozen account with-

- (a) interest or other earnings due on the account; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.

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(2) The prohibitions in paragraphs 5 and 6 do not prevent a relevant institution from crediting a frozen account where it receives funds transferred to the account.

(3) A relevant institution must inform the Minister without delay if it credits a frozen account in accordance with subparagraph (1)(b) or (2).

(4) In this paragraph “frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person.

### Part 3

#### Restrictions on Financial Services and Markets

#### **Credit and financial institutions: accounts and correspondent banking relationships.**

11.(1) A credit or financial institution falling within the scope of Article 1 of the Council Regulation must not-

- (a) open a new bank account with;
- (b) establish a new correspondent banking relationship with;
- (c) establish a new joint venture with; or
- (d) take an ownership interest in,

a person falling within subparagraph (2), if the credit or financial institution knows or has reasonable cause to suspect that the account, relationship or venture is with, or the ownership interest is in, a person falling within subparagraph (2).

(2) The following persons fall within this subparagraph-

- (a) a credit or financial institution domiciled in the Democratic People's Republic of Korea;
- (b) a branch or subsidiary, wherever located, of a credit or financial institution domiciled in the Democratic People's Republic of Korea;
- (c) a credit or financial institution that is not domiciled in the Democratic People's Republic of Korea but is controlled by a person, entity or body domiciled in the Democratic People's Republic of Korea.

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(3) A credit or financial institution falling within the scope of Article 1 of the Council Regulation must not-

- (a) open a new representative office in the Democratic People's Republic of Korea; or
- (b) establish a new branch or subsidiary in the Democratic People's Republic of Korea.

(4) Subparagraph 1(b) to (d) are subject to paragraph 24.

**Credit and financial institutions: representative offices etc.**

12. A person ("P") must not-

- (a) authorise the opening of a representative office or the establishment of a branch or subsidiary in the European Union of a person falling within paragraph 11(2);
- (b) conclude an agreement for, or on behalf of, a person falling within paragraph 11(2) which relates to the opening of a representative office or the establishment of a branch or subsidiary in the European Union, if P knows or has reasonable cause to suspect that the agreement is for, or on behalf of, such a person; or
- (c) authorise the taking up and pursuing of business by a representative office, branch or subsidiary of a person falling within paragraph 11(2), if the representative office, branch or subsidiary was not operational before 19th February 2013.

**Acquisition or extension of ownership interest.**

13. A person falling within paragraph 11(2) must not acquire or extend a participation, or acquire any other ownership interest, in a credit or financial institution falling within the scope of Article 1 of the Council Regulation.

**Sale or purchase of bonds.**

14.(1) A person ("P") must not sell or purchase public or public-guaranteed bonds issued after 19th February 2013, directly or indirectly, to or from a person, entity or body falling within subparagraph (4) if P knows or has reasonable cause to suspect that the sale or purchase would be to or from such a person, entity or body.

(2) A person ("P") must not provide brokering services with respect to public or public guaranteed bonds issued after 19th February 2013 to a



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person, entity or body falling within subparagraph (4) if P knows or has reasonable cause to suspect that the services would be provided to such a person, entity or body.

(3) A person ("P") must not assist a person, entity or body falling within subparagraph (4) to issue public or public-guaranteed bonds, by providing-

- (a) brokering services;
- (b) advertising; or
- (c) any other service with respect to such bonds,

if P knows or has reasonable cause to suspect that P would be assisting such a person, entity or body.

(4) The following persons, entities and bodies fall within this subparagraph-

- (a) the Democratic People's Republic of Korea and its Government, public bodies, corporations and agencies;
- (b) the Central Bank of the Democratic People's Republic of Korea;
- (c) any person falling within paragraph 11(2);
- (d) a person, entity or body acting on behalf of or at the direction of a legal person, entity or body falling within sub-paragraphs (a) or (b); and
- (e) a legal person, entity or body owned or controlled by a person, entity or body falling within subparagraphs (a) to (c).

**DPRK credit and financial institutions: branches, subsidiaries and representative offices.**

15. A person must not operate or facilitate the operation of-

- (a) a branch;
- (b) a subsidiary; or
- (c) a representative office,

of a person falling within paragraph 11(2).

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**Severance of existing financial relationships.**

16.(1) A credit or financial institution falling within the scope of Article 1 of the Council Regulation must have, by 31st May 2016-

- (a) closed any bank account with;
- (b) terminated any correspondent banking relationship with;
- (c) terminated any joint venture with;
- (d) relinquished any ownership interest in,

a person falling within paragraph 11(2).

(2) A credit or financial institution falling within the scope of Article 1 of the Council Regulation must have, by 31st May 2016-

- (a) closed any branch in the Democratic People's Republic of Korea; and
- (b) closed any subsidiary, or representative office in the Democratic People's Republic of Korea.

(3) Subparagraphs (1)(a) and (2)(b) are subject to paragraph 24.

**Business directly or indirectly with designated persons.**

17. A person must not participate, directly or indirectly, in any business arrangements, including joint ventures, with-

- (a) any person, entity or body listed in Annex XIII of the Council Regulation; or
- (b) any other person, entity or body acting on behalf or at the direction of such a person, entity or body.

**Financial support for trade.**

18.(1) A person may not provide any financial support for trade with the Democratic People's Republic of Korea.

(2) In subparagraph (1), financial support for trade includes, but is not limited to-

- (a) finance;

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- (b) financial assistance;
- (c) export credits;
- (d) guarantees; and
- (e) insurance.

(3) Subparagraph (1) is subject to paragraph 24.

**Investment and commercial activities.**

19.(1) A person must not accept or approve investment in a commercial activity where such investment is made by a person, entity or body listed in subparagraph (8).

(2) A person must not grant financing or financial assistance to any person, entity or body listed in subparagraph (8)(d) to (f).

(3) A person must not establish, maintain, or operate a joint venture or a co-operative entity with a person, entity or body-

- (a) listed in subparagraph (8); or
- (b) domiciled in the Democratic People's Republic of Korea.

(4) A person is required to close any joint ventures or cooperative entities with a person, entity or body listed in subparagraph (8)-

- (a) by 9th January 2018; or
- (b) within 120 days from the date on which the Sanctions Committee has denied a request for approval, to continue the joint venture or cooperative entity;

whichever is the later.

(5) A person must not take, acquire, maintain or extend any ownership interest in a person, entity or body-

- (a) listed in subparagraph (8); or
- (b) domiciled in the Democratic People's Republic of Korea.

(6) A person must not take, acquire, maintain or extend any ownership interest in activities or assets in the Democratic People's Republic of Korea.

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(7) A person must not provide investment services directly or indirectly related to any activity that is prohibited by subparagraphs (2) to (6).

(8) The persons, entities and bodies listed in this subparagraph are-

- (a) a person, entity or body of the Government of the Democratic People's Republic of Korea;
- (b) the Worker's Party of Korea;
- (c) a national of the Democratic People's Republic of Korea;
- (d) a legal person, entity or body incorporated or constituted under the law of the Democratic People's Republic of Korea;
- (e) a person, entity or body acting on behalf of or at the direction of a person, entity or body falling within subparagraphs (a) to (d); or
- (f) a person, entity or body owned or controlled by a person, entity or body falling within subparagraphs (a) to (d).

(9) In this paragraph "Sanctions Committee" means the committee of the United Nations Security Council established under paragraph 12 of UN Security Council Resolution 1718 (2006).

**Transfer of funds.**

20.(1) Subject to subparagraph (3) or (7) a person ("P") must not make a transfer of funds to, or receive a transfer of funds from, the Democratic People's Republic of Korea.

(2) Subject to subparagraph (3) or (7) a credit or financial institution falling within the scope of Article 1 of the Council Regulation must not enter into, or continue to participate in, any transaction with-

- (a) credit or financial institutions domiciled in the Democratic People's Republic of Korea;
- (b) branches or subsidiaries, wherever located, of credit or financial institutions domiciled in the Democratic People's Republic of Korea; or
- (c) credit or financial institutions that are not domiciled in the Democratic People's Republic of Korea but are controlled by

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persons, entities or bodies domiciled in the Democratic People's Republic of Korea.

- (3) A transfer of funds may be made-
- (a) where the value of the transfer is €15,000 or less, if the transfer relates to a transaction mentioned in subparagraph (4); or
  - (b) where the value of the transfer is over €15,000, if-
    - (i) the transfer relates to a transaction mentioned in subparagraph (4); and
    - (ii) P or the institution has obtained authorisation from the Minister.
- (4) The transactions are-
- (a) transactions regarding foodstuffs, healthcare or medical equipment;
  - (b) transactions for agricultural or humanitarian purposes;
  - (c) transactions that have been licensed under paragraph 24;
  - (d) transactions that are permitted under an exemption contained in the Council Regulation;
  - (e) transactions regarding a trade contract that is not prohibited by the Council Regulation;
  - (f) transactions regarding the official purposes of a diplomatic or consular mission or an international organisation enjoying immunities in accordance with international law; and
  - (g) transactions required exclusively for the implementation of projects funded by the European Union or its Member States for development purposes directly addressing the needs of the civilian population of the Democratic People's Republic of Korea or the promotion of denuclearisation.
- (5) The prohibitions in subparagraphs (1) and (2) do not apply to transactions regarding personal remittances, provided that they involve a transfer of funds for amounts equal to or less than €5,000.

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(6) A transfer related to a personal remittance where the value of transfer is over €5,000 may be made if P or the institution has obtained authorisation from the Minister.

(7) The prohibitions in subparagraphs (1) and (2) do not apply to a transfer of funds or transaction which is necessary for the official purposes of a diplomatic or consular mission of a Member State in the Democratic People's Republic of Korea or an international organisation enjoying immunities in the Democratic People's Republic of Korea in accordance with international law

(8) In this paragraph-

- (a) the reference to an amount in euros includes a reference to the equivalent amount in another currency;
- (b) a reference to a transfer of funds of a particular amount includes a transfer executed in several operations which appear to be linked, as well as a transfer executed in a single operation; and
- (c) a reference to a transfer of funds includes the clearing of funds.

**Authorisations.**

21.(1) An authorisation granted by the Minister under paragraph 20(3) or (6) may be-

- (a) general or granted to a category of persons or to a particular person;
- (b) subject to conditions; or
- (c) of indefinite duration or subject to an expiry date.

(2) The Minister may vary or revoke an authorisation at any time.

(3) On the grant, variation or revocation of an authorisation, the Minister shall-

- (a) in the case of an authorisation granted to a particular person, give written notice of the grant, variation or revocation to that person; or
- (b) in the case of a general authorisation or an authorisation granted to a category of persons, take such steps as the

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Minister considers appropriate to publicise the grant, variation or revocation of the authorisation.

(4) A person commits an offence who, for the purpose of obtaining an authorisation, knowingly or recklessly-

- (a) provides information that is false in a material respect; or
- (b) provides or produces a document that is not what it purports to be.

(5) A person who purports to act under an authorisation granted by the Minister but who fails to comply with any conditions included in the authorisation commits an offence.

### **Bank accounts for diplomats and diplomatic missions of the Democratic People's Republic of Korea.**

22.(1) A credit or financial institution falling within the scope of Article 1 of the Council Regulation must not open a new bank account for-

- (a) a diplomatic mission or consular post of the Democratic People's Republic of Korea; or
- (b) a national of the Democratic People's Republic of Korea who is a member of such a diplomatic mission or consular post.

(2) A credit or financial institution falling within the scope of Article 1 of the Council Regulation must close any bank account by 11th April 2017 which is held or controlled by-

- (a) a diplomatic mission or consular post of the Democratic People's Republic of Korea; or
- (b) a national of the Democratic People's Republic of Korea who is a member of such a diplomatic mission or consular post.

(3) Subparagraphs (1) and (2) are subject to paragraph 24.

### **Real property.**

23.(1) A person must not-

- (a) lease, or otherwise make available, real property, directly or indirectly, to persons, entities or bodies of the Government of the Democratic People's Republic of Korea;

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- (b) lease real property, directly or indirectly, from persons, entities or bodies of the Government of the Democratic People's Republic of Korea; or
- (c) engage in any activity linked to the use of real property that persons, entities or bodies of the Government of the Democratic People's Republic of Korea own, lease or are otherwise entitled to use.

(2) The prohibition in subparagraph (1)(a) does not apply where the real property is used for diplomatic or consular activities.

(3) The prohibition in subparagraph 1(c) does not apply to the provision of goods and services which-

- (a) are essential for the functioning of diplomatic missions or consular posts; and
- (b) cannot be used to generate income or profit directly or indirectly for the Government of the Democratic People's Republic of Korea.

**Part 4  
Licences**

**Licences.**

24.(1) The prohibitions and requirements in paragraphs 4 to 8, 11(1)(b) to (d), 16(1)(a) and (2)(b), 18(1), 19(3) to (6) and 22 do not apply to anything done under the authority of a licence granted by the Minister.

(2) A licence must specify the acts authorised by it and may be-

- (a) general or granted to a category of persons or to a particular person;
- (b) subject to conditions; or
- (c) of indefinite duration or subject to an expiry date.

(3) The Minister may vary or revoke a licence at any time.

(4) On the grant, variation or revocation of a licence, the Minister shall-

- (a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person; or



- (b) in the case of a general licence or a licence granted to a category of persons, take such steps as he considers appropriate to publicise the grant, variation or revocation of the licence.

(5) A person commits an offence who, for the purpose of obtaining a licence, knowingly or recklessly-

- (a) provides information that is false in a material respect; or
- (b) provides or produces a document that is not what it purports to be.

(6) A person who purports to act under the authority of a licence but who fails to comply with any condition included in the licence commits an offence.

### **Part 5 Offences**

#### **Contravention and circumvention of prohibitions.**

25.(1) A person who contravenes any of the prohibitions or requirements in paragraphs 4 to 8, 11 to 20, 22 and 23 commits an offence.

(2) A person commits an offence who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly)-

- (a) to circumvent any of the prohibitions in paragraphs 4 to 8, 11 to 20, 22 and 23; or
- (b) to enable or facilitate the contravention of any such prohibition or requirement.

#### **Offences of a body corporate etc.**

26.(1) Where an offence under this Order committed by a body corporate-

- (a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity; or
- (b) is attributable to any neglect on the part of any such person, that person as well as the body corporate is liable to be proceeded against and punished accordingly.

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(2) In subparagraph (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Subparagraph (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference-

- (a) in the case of a partnership, to a partner; and
- (b) in the case of an unincorporated body other than a partnership-
  - (i) where the body's affairs are managed by its members, to a member of the body; and
  - (ii) in any other case, to a member of the governing body.

**Penalties.**

27.(1) A person guilty of an offence under paragraphs 24 or 25 is liable-

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine or to both; or
- (b) on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(2) A person guilty of an offence under paragraph 1(5) or paragraph 4(1) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine or to both.

**Extra-territorial application of offences.**

28.(1) An offence under this Order may be committed by conduct wholly or partly outside Gibraltar by-

- (a) a British person;
- (b) a body incorporated or constituted under the laws of Gibraltar.

(2) In subparagraph (1) “British person” means-

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

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- (b) a person who under the British Nationality Act 1981 is a British subject; or
- (c) a British protected person within the meaning of that Act.

(3) In this paragraph “conduct” includes acts and omissions.

(4) Nothing in this paragraph affects any criminal liability arising otherwise than under this paragraph.

**Proceedings.**

29.(1) Proceedings against any person for an offence under this Order may be taken before the Supreme court.

(2) An offence falling under this Order which is committed wholly or partly outside Gibraltar may for all incidental purposes be treated as having been committed within the jurisdiction of the Supreme court.

(3) An information relating to an offence that is triable by the magistrates' court may also be tried if it is laid-

- (a) at any time within three years after the commission of the offence; and
- (b) within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

**Consent to prosecution.**

30.(1) Proceedings for an offence under this Order (other than a summary offence) may not be instituted except by or with the consent of the Attorney General.

(2) Nothing in subparagraph (1) prevents-

- (a) the arrest of a person in respect of an offence under this Order; or
- (b) the remand in custody or on bail of any person charged with such an offence.

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**Information provisions.**

31. The Schedule (information provisions) has effect.

**Notices.**

32. This paragraph has effect in relation to any notice to be given to a person by the Minister under regulation 21 (authorisations) or 24 (licences).

(2) Any such notice may be given-

- (a) by posting it to the person's last known address; or
- (b) where the person is a body corporate, partnership or unincorporated body other than a partnership, by posting it to the registered or principal office of the body or partnership concerned.

(3) Where the Minister does not have an address for the person, he must make arrangements for the notice to be given to the person at the first available opportunity.

**Crown application.**

33.(1) This Order binds the Crown in the right of the Government of Gibraltar.

(2) No contravention by the Crown in right of the Government of Gibraltar of a provision of this Order makes the Crown criminally liable.

(3) Nothing in this paragraph affects Her Majesty in her private capacity.

**Repeal of the Democratic People's Republic of Korea Sanctions Order 2016.**

34. The Democratic People's Republic of Korea Sanctions Order 2016 is repealed.

**Savings.**

35.(1) Any licence granted under paragraph 13 or any authorisation granted under paragraph 24 of the Democratic People's Republic of Korea Sanctions Order 2016 which was in effect immediately before the coming into force of this Order has effect as if it were a licence granted by the Minister.

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(2) This Order applies to a licence or authorisation granted by the Minister under paragraph 24 (licences) or paragraph 20 (transfers of funds), or which has effect as if it were such a licence or authorisation by virtue of subparagraph (1), and which was in effect immediately before the coming into force of Council Regulation (EU) 2017/1509 of 30th August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007.

(3) Subject to variation or revocation, a licence or authorisation to which subparagraph (2) applies continues to have effect notwithstanding the repeal of Council Regulation (EC) No 329/2007, and any reference in such licence or authorisation to that Regulation (or to a particular part of that Regulation) is to be construed as a reference to Council Regulation (EU) 2017/1509 (or the corresponding part).

**Schedule  
Information provisions**

**Reporting obligations of relevant institutions.**

1.(1) A relevant institution must inform the Minister as soon as practicable if-

- (a) it knows, or has reasonable cause to suspect, that a person-
  - (i) is a designated person; or
  - (ii) has committed an offence under paragraph 24 or 25; and
- (b) the information or other matter on which the knowledge or suspicion is based came to it in the course of carrying on its business.

(2) Where a relevant institution informs the Minister under subparagraph (1), it must state-

- (a) the information or other matter on which the knowledge or suspicion is based; and
- (b) any information it holds about the person by which the person can be identified.

(3) Subparagraph (4) applies if-

- (a) a relevant institution informs the Minister under subparagraph (1) that it knows, or has reasonable cause to suspect, that a person is a designated person; and
- (b) that person is a customer of the institution.

(4) The relevant institution must also state the nature and amount or quantity of any funds or economic resources held by it for the customer.

(5) A relevant institution that fails to comply with any requirement of subparagraph (1), (2) or (4) commits an offence.

**Powers to request information.**

2.(1) The Minister may request a designated person to provide information concerning-

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(a) funds or economic resources belonging to, owned, held or controlled by or on behalf of the designated person; or

(b) any disposal of such funds or economic resources.

(2) The Minister may request a designated person to provide such information as he may reasonably require about expenditure-

(a) by or on behalf of the designated person; or

(b) for the benefit of the designated person.

(3) The power in subparagraph (1) or (2) is exercisable only where the Minister believes that it is necessary for the purpose of monitoring compliance with or detecting evasion of this Order.

(4) The Minister may request a person acting under an authorisation granted under paragraph 20 or a licence granted under paragraph 24 to provide information concerning-

(a) funds or transactions to which the authorisation relates;

(b) funds or economic resources dealt with under the licence; or

(c) funds or economic resources made available under the licence.

(5) The Minister may request any person in or resident in Gibraltar to provide such information as he may reasonably require for the purpose of-

(a) establishing for the purposes of this Order-

(i) the nature and amount or quantity of any funds or economic resources belonging to, owned, held or controlled by or on behalf of a designated person;

(ii) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person; or

(iii) the nature of any financial transactions entered into by a designated person;

(b) monitoring compliance with or detecting evasion of this Order; or

(c) obtaining evidence of the commission of an offence under this Order.

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(6) The Minister may specify the manner in which, and the period within which, information is to be provided.

(7) If no such period is specified, the information which has been requested must be provided within a reasonable time.

(8) A request may include a continuing obligation to keep the Minister informed as circumstances change, or on such regular basis as the Minister may specify.

(9) Information requested under this paragraph may relate to any period of time during which a person is, or was, a designated person.

(10) Information requested under subparagraph (1)(b), (2) or (5)(a)(iii) may relate to any period of time before a person became a designated person (as well as, or instead of, any subsequent period of time).

**Production of documents.**

3.(1) A request under paragraph 2 may include a request to produce specified documents or documents of a specified description.

(2) Where the Minister requests that documents be produced, he may-

- (a) take copies of or extracts from any document so produced;
- (b) request any person producing a document to give an explanation of it; and
- (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is-
  - (i) in the case of a partnership, a present or past partner or employee of the partnership; or
  - (ii) in any other case, a present or past officer or employee of the body concerned, to give such an explanation.

(3) Where the Minister requests a designated person or a person acting under an authorisation granted under paragraph 20 or a licence granted under paragraph 24 to produce documents, that person must-

- (a) take reasonable steps to obtain the documents (if not already in the person's possession or control); and



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- (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Minister or as the Minister may otherwise permit).

**Failure to comply with request for information.**

4.(1) A person commits an offence who-

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule;
- (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, conceals or removes any document; or
- (d) otherwise intentionally obstructs the Minister in the exercise of his powers under this Schedule.

(2) Where a person is convicted of an offence under this paragraph, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

**General power to disclose information.**

5.(1) The Minister may disclose any information obtained by him pursuant to this Order to any person for the purpose of facilitating or ensuring compliance with the Council Regulation.

(2) The power in subparagraph (1) includes but is not limited to disclosing information to the following persons-

- (a) a police officer;
- (b) any person holding or acting in any office under or in the service of the Government of Gibraltar;
- (c) the Gibraltar Financial Services Commission;
- (d) any other regulatory body, including those of Member States;
- (e) any organ of the United Nations; or

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- (f) the Council of the European Union, the European Commission or the Government of a Member State.

(3) The purpose of facilitating or ensuring compliance with the Council Regulation referred to in subparagraph (1) includes but is not limited to the following-

- (a) monitoring compliance with, or detecting evasion of, this Order or the Council Regulation;
- (b) giving assistance or co-operation, pursuant to the Council Regulation; or
- (c) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings.

(4) The Minister may disclose any information obtained by him pursuant to this Order to any person with the consent of a person who, in their own right, is entitled to the information or to possession of the document, copy or extract.

(5) In subparagraph (4) "in their own right" means not merely in the capacity as a servant or agent of another person.

**Application of provisions.**

6.(1) Nothing done under this Schedule is to be treated as a breach of any restriction imposed by statute or otherwise.

(2) But nothing in this Schedule authorises a disclosure that contravenes the Data Protection Act 2004.

(3) Nothing in this Schedule is to be read as requiring a person who has acted or is acting as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.

(4) This Schedule does not limit the circumstances in which information may be disclosed apart from this Schedule.

(5) This Schedule does not limit the powers of the Minister to impose conditions in connection with the discharge of his functions under paragraphs 21 and 24.

(6) In this paragraph "privileged information" means information with respect to which a claim to legal professional privilege could be maintained in legal proceedings.