



Jersey

## COMMUNITY PROVISIONS (RESTRICTIVE MEASURES – NORTH KOREA) (JERSEY) ORDER 2013

### Arrangement

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Jersey

## COMMUNITY PROVISIONS (RESTRICTIVE MEASURES – NORTH KOREA) (JERSEY) ORDER 2013

*Made*

*Coming into force*

**THE CHIEF MINISTER**, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, orders as follows –

### **1 Interpretation**

In this Order “Council Regulation No. 329/2007” means –

- (a) in Article 2, Council Regulation (EC) No. 329/2007 of 27 March 2007 concerning restrictive measures against the Democratic People’s Republic of Korea (O.J. No. L 88/1, 29.3.2007) as amended up to 29th March 2013; and
- (b) in Articles 3 to 6 and the Schedule, the provisions of that Council Regulation as they have effect in Jersey by virtue of Article 2.

### **2 Implementation of Council Regulation No. 329/2007**

- (1) Council Regulation No. 329/2007 has effect as if it were an enactment, to any extent that it does not otherwise apply in Jersey, subject to the modifications made by this Article.
- (2) A reference in that Council Regulation to a Member State, Member States or the Union is to be construed so as to include Jersey.
- (3) A reference in that Council Regulation to the competent authorities is to be construed so as to include the Minister.
- (4) Council Regulation No. 329/2007 is modified as follows –
  - (a) Articles 1(8), 5(2), 7(2)(b), 7(3), 13, 14 and 15 are deleted;
  - (b) in Article 11a(1)(d) for the words from “to the financial intelligence unit” to the end of that sub-paragraph there are substituted the words “to a designated police officer or designated customs officer within the meaning of the Money Laundering (Jersey) Order 2008.”;

- (c) for Article 10(1) there is substituted the following paragraph –
- “1. Without prejudice to any provision of the law of Jersey concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall –
- (a) supply immediately any information which would facilitate compliance with this Regulation to the Minister; and
- (b) co-operate with the Minister in any verification of that information.”;
- (d) for Article 12 there is substituted the following Article –

*“Article 12*

The Minister may inform the Commission or any Member State of the measures he or she proposes to take, or has taken, under this Regulation and may supply the Commission or any Member State with any other relevant information at his or her disposal in connection with this Regulation.”;

- (e) for Article 16 there is substituted the following Article –

*“Article 16*

This Regulation applies –

- (a) within Jersey, including its airspace;
- (b) on board any aircraft, or any vessel, under the jurisdiction of Jersey;
- (c) to any legal person, entity, or body, which is incorporated or constituted under the law of Jersey;
- (d) to any legal person, entity, or body, in respect of any business done in whole or in part in Jersey.”.

### **3 Information**

The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Minister, of information for any purpose in connection with Council Regulation No. 329/2007.

### **4 Offences**

- (1) A person who –
- (a) contravenes Article 2, 3, 3a, 4, 4a, 4b, 5a, 6, 9a, 10(3) or 11a of Council Regulation No. 329/2007;
- (b) intentionally furnishes false information or a false explanation to any person exercising powers under the Schedule; or
- (c) with intent to evade the provisions of the Schedule, destroys, mutilates, defaces, secretes or removes any document,

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is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

- (2) A person who, without reasonable excuse, contravenes paragraph 1(2) of the Schedule or Article 10(1) of Council Regulation No. 329/2007 is guilty of an offence and liable to imprisonment for a term of 3 months and to a fine.
- (3) If an offence under this Order committed by a limited liability partnership, separate limited partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) a person purporting to act in any such capacity,the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.
- (5) A prosecution for an offence under this Order must not be instituted without the consent of the Attorney General.

## **5 Applicability of Customs and Excise (Jersey) Law 1999 to certain offences**

- (1) Article 48 of the 1999 Law (power of arrest) applies to the arrest of a person for an offence to which this Article applies as it applies to the arrest of a person for an offence under the 1999 Law.
- (2) Articles 64 to 67 of the 1999 Law (legal proceedings, power to levy penalty and provisions as to proof) apply in relation to offences and penalties to which this Article applies and proceedings for such offences as they apply in relation to offences and penalties and proceedings for offences under the 1999 Law.
- (3) This Article applies to any offence concerning a contravention of Article 2, 3, 3a, 4, 4a or 4b of Council Regulation No. 329/2007.
- (4) In this Article "1999 Law" means the Customs and Excise (Jersey) Law 1999.

## **6 Functions of Minister**

- (1) The Minister, with a view to ensuring compliance with Council Regulation No. 329/2007, must perform the functions required to be performed by a competent authority of a Member State under those Council Regulations, as if the Minister were a competent authority.
- (2) The Minister may, to such extent and subject to such restrictions as he or she may think proper, delegate or authorize the delegation of any of his or

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her functions under this Order to any person, or class or description of person, approved by the Minister.

**7 Revocation**

The Community Provisions (Restrictive Measures – North Korea) (Jersey) Order 2007 is revoked.

**8 Citation and commencement**

This Order may be cited as the Community Provisions (Restrictive Measures – North Korea) (Jersey) Order 2013 and comes into force on the day after it is made.

*Signed*.....

*Date*.....

*Chief Minister*

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**SCHEDULE**

(Article 3)

**INFORMATION**

**1 Disclosure of information**

- (1) The Minister (or any person authorized by the Minister for that purpose either generally or in a particular case) may request a person in or resident in Jersey to –
  - (a) furnish to the Minister information; or
  - (b) produce to the Minister a document,  
in the person's possession or control, that the Minister may require for the purpose of ensuring compliance with Council Regulation No. 329/2007.
- (2) A person must, within the time and manner specified in the request (or, if no time has been so specified, within a reasonable time), comply with a request made pursuant to sub-paragraph (1).
- (3) Nothing in this paragraph requires a person who has acted as legal adviser for a person to disclose a privileged communication made to the person in that capacity.
- (4) If a person is convicted by a court of an offence under this Order of failing to furnish information or to produce a document, the court may make an order requiring the person, within such period as may be specified in the order, to furnish the information or produce the document.
- (5) The power conferred by this paragraph to request a person to produce a document includes the power to take copies of or extracts from a document so produced and to request the person or, if the person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

**2 Restrictions on disclosure**

- (1) Information furnished or a document produced (including any copy or extract made of a document produced) by a person in pursuance of a request made under this Schedule must not be disclosed except –
  - (a) subject to sub-paragraph (2), with the consent of the person by whom the information was furnished or the document was produced;
  - (b) to a person who would have been empowered under this Schedule to request that it be furnished or produced or a person holding or acting in an office under or in the service of the States;
  - (c) on the authority of the Minister, to the European Commission or to any of the competent authorities of the Member States, being the

- competent authorities specified in Council Regulation No. 329/2007, for any purpose in connection with that Council Regulation;
- (d) on the authority of the Minister, to the Jersey Financial Services Commission established under the Financial Services Commission (Jersey) Law 1998, for the purpose of any of its functions, where the Minister believes that the exercise of such a function may assist in achieving compliance with Council Regulation No. 329/2007; or
  - (e) with a view to the institution of, or otherwise for the purposes of, proceedings for an offence under this Order.
- (2) A person who has obtained information or is in possession of a document only in the person's capacity as a servant or agent of another person may not give consent for the purposes of sub-paragraph (1)(a), but such consent may instead be given by a person who is entitled to that information or to possession of that document in the person's own right.



