



STATUTORY INSTRUMENTS

S.I. No. 473 of 2008

EUROPEAN COMMUNITIES (DEMOCRATIC REPUBLIC OF CONGO)
(FINANCIAL SANCTIONS) REGULATIONS 2008

(Prn. A8/1848)

EUROPEAN COMMUNITIES (DEMOCRATIC REPUBLIC OF CONGO)
(FINANCIAL SANCTIONS) REGULATIONS 2008

I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving 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 make the following regulations:

1. These Regulations may be cited as the European Communities (Democratic Republic of Congo) (Financial Sanctions) Regulations 2008.

2. (1) In these Regulations—

“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 these Regulations 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 these Regulations as it has in the Council Regulation concerned.

3. Subject to Regulation 4, a person commits an offence if he or she infringes the provisions of Council Regulation (EC) No. 889/2005 or Council Regulation (EC) No. 1183/2005 as regards—

- (a) the provision of financing or financial assistance,
- (b) the freezing of funds or economic resources,
- (c) the making available of funds or economic resources,
- (d) the supply of information to or cooperation with the competent authorities, or
- (e) the participation in activities to circumvent the requirements of Council Regulation (EC) No. 889/2005 as regards paragraph (a) or Council Regulation (EC) No. 1183/2005 as regards paragraph (b), (c) or (d).

4. Notwithstanding Regulation 3, 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 Regulation 3 as are so authorised.

5. The Central Bank and Financial Services Authority of Ireland may, for the purposes of the administration and enforcement of the provisions of these Regulations, give such directions or issue such instructions to a person as it sees fit.

6. A person who fails to comply with a direction or an instruction issued under Regulation 5 shall be guilty of an offence.

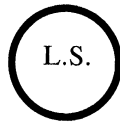
7. Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first mentioned offence.

¹¹OJ L246, 21.9.2007, p.29.

8. A person guilty of an offence under these Regulations is liable:

- (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years or both.

9. The European Communities (Democratic Republic of Congo) (Financial Sanctions) Regulations 2006 (S.I. No. 420 of 2006) are revoked.



GIVEN under my Official Seal
19 November 2008

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).

These Regulations provide for enforcement of European Union financial sanctions contained 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.

These Regulations also provide 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.

They create offences for breach of the Council Regulation or for failure to comply with the instructions of the CBFSAI with regard to implementation of the sanctions and they provide for appropriate penalties.

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