

2015 No. 824

OVERSEAS TERRITORIES

**The Syria (Restrictive Measures) (Overseas Territories)
(Amendment) Order 2015**

Made - - - - - *19th March 2015*
Laid before Parliament *26th March 2015*
Coming into force - - - *16th April 2015*

At the Court at Buckingham Palace, the 19th day of March 2015

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and all of the other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Syria (Restrictive Measures) (Overseas Territories) (Amendment) Order 2015 and comes into force on 16th April 2015.

(2) In this Order, “the principal Order” means the Syria (Restrictive Measures) (Overseas Territories) Order 2012(c).

(3) This Order extends to the territories listed in Schedule 1 to the principal Order.

Amendments to the principal Order

2. The principal Order is amended as follows.

3. After article 11 (offences related to crude oil and petroleum products listed in Annex IV), insert—

“Offences related to jet fuel and fuel additives

11A.—(1) A person to whom this Order applies (“P”) commits an offence if P knowingly—

- (a) sells, supplies, transfers or exports (directly or indirectly) jet fuel and fuel additives to any person in Syria or for use in Syria;

(a) 1833 c.85.

(b) 1887 c.54 and 1945 c.7.

(c) S.I. 2012/1755, amended by S.I. 2012/3069, 2013/1719, 2013/2598 and 2014/269.

- (b) provides financing or financial assistance (including financial derivatives, insurance and reinsurance) related to the sale, supply, transfer or export of jet fuel and fuel additives to any person in Syria or for use in Syria; or
- (c) provides brokering services with regard to the sale, supply, transfer or export of jet fuel and fuel additives to any person in Syria or for use in Syria.

(2) Paragraph (1) does not apply if P is acting under the authority of a licence granted by the Governor under this article.

(3) The Governor may, with the consent of the Secretary of State, grant a licence under this article to authorise activity referred to in paragraph (1) if the jet fuel and fuel additives are required by the United Nations, or bodies acting on its behalf, for humanitarian purposes or for evacuations from Syria or within Syria.

(4) Paragraph (1) does not apply in relation to specified jet fuel and fuel additives used exclusively by—

- (a) non-Syrian civilian aircraft landing in Syria, provided that the specified jet fuel and fuel additives are used solely for the continuation of the flight operation of the aircraft into which they were loaded;
- (b) a Syrian air carrier listed in Annex II or IIa to the Council Regulation carrying out evacuations from Syria in accordance with an authorisation referred to in Article 16(h) to the Council Regulation; or
- (c) a Syrian air carrier, other than one listed in Annex II or IIa to the Council Regulation, carrying out evacuations from or within Syria.

(5) In this article—

- (a) “jet fuel and fuel additives” means any fuel or additive listed in Annex Va to the Council Regulation; and
- (b) “specified jet fuel and fuel additives” means any fuel or additive listed in Annex Vb to the Council Regulation.”.

4. In article 25(3) (freezing funds and economic resources)(a), for “articles 31 and 33” substitute “articles 30, 31 and 33”.

5. In article 33(2) (licences granted under articles 25 to 29)(b)—

- (a) in sub-paragraph (m), for the full-stop substitute “; or”; and
- (b) after sub-paragraph (m), insert—

“(n) payment by Syrian State-owned entities or the Central Bank of Syria to the Organisation for the Prohibition of Chemical Weapons (“OPCW”) for activities related to the OPCW verification mission and the destruction of Syrian chemical weapons;

- (o) the making available of funds or economic resources determined by the Governor to be necessary for or in connection with the essential energy needs of the civilian population in Syria, provided that the other Member States and the Commission of the European Union have been notified of the grounds for the Governor’s determination at least four weeks before the licence is granted; or
- (p) the transfer to, by or through the Commercial Bank of Syria of funds or economic resources from outside the European Union related to a payment due in connection with a specific trade contract for the purpose of meeting essential civilian needs, provided that the Governor has determined that the payment will not contribute to an activity prohibited under this Order.”.

6. After article 40 (insurance and reinsurance), insert—

(a) Article 25(3) was amended by S.I. 2012/3069.

(b) Article 33(2) was amended by S.I. 2012/3069, 2013/1719 and 2014/269.

“Circumvention of prohibitions in articles 36 to 40

40A. A person (“P”) commits an offence if P intentionally participates in activities knowing that the object or effect of them is (directly or indirectly)—

- (a) to circumvent any of the prohibitions in articles 36 to 40, or
- (b) to enable or facilitate the contravention of any such prohibition.”.

7. In article 43 (penalties)(a)—

- (a) in paragraph (1), after “10(1)(a),” insert “11A(1)(a),”;
- (b) in paragraph (2)—
 - (i) after “11,” insert “11A(1)(b) or (c),” and
 - (ii) after “40” insert “, 40A”.

8. After article 47 (liability), insert—

“Claims for indemnity or under contract

47A.—(1) No claim in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by this Order may be enforced if it is made by—

- (a) a designated person;
- (b) any other Syrian person, including the Syrian government; or
- (c) a person acting on behalf of a person referred to in sub-paragraph (a) or (b).

(2) Paragraph (1) applies in particular to any claim for indemnity or any other claim of that type, such as a claim under guarantee (including a financial guarantee or indemnity).

(3) In any proceedings, the burden of proof that enforcement of the claim is not precluded by paragraph (1) is on the person seeking to enforce the claim.”.

9. In Schedule 2 (application of Articles 43 and 44 to the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus)(b)—

- (a) in paragraph 1, after “10(1)(a),” insert “11A(1)(a),”;
- (b) in paragraph 2—
 - (i) after “11,” insert “11A(1)(b) or (c),”
 - (ii) omit “20(2)(b),” and
 - (iii) after “40,” insert “40A,”.

10. In Schedule 4 (application of Article 43 to St Helena, Ascension and Tristan de Cunha)(c)—

- (a) in paragraph 1, after “10(1)(a),” insert “11A(1)(a),”;
- (b) in paragraph 2—
 - (i) after “11,” insert “11A(1)(b) or (c),”
 - (ii) omit “20(2)(b),” and
 - (iii) after “40,” insert “40A,”.

Richard Tilbrook
Clerk of the Privy Council

(a) Article 43 was amended by S.I. 2014/269.
(b) Schedule 2 was amended by S.I. 2014/269.
(c) Schedule 4 was amended by S.I. 2014/269.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Syria (Restrictive Measures) (Overseas Territories) Order 2012 (S.I. 2012/1755, as amended) (“the principal Order”). The principal Order gives effect in specified Overseas Territories to sanctions in respect of Syria adopted by the European Union in Council Regulation (EU) No 36/2012 (OJ No L 016, 19.1.2012, p1), as amended.

The amendments made in this Order give effect to changes adopted by the European Union in Council Regulation (EU) No 1323/2014 (OJ No L 358, 13.12.2014, p1). In particular, this Order:

(a) creates new offences in relation to the sale, supply, transfer or export of jet fuels and fuel additives to any person, entity or body in Syria or for use in Syria. It also creates offences in relation to the provision of financing or brokering services in relation to the sale, supply, transfer or export of jet fuels and additives;

(b) creates new offences in relation to the circumvention of the restrictions on financial services set out in articles 36 to 40 of the principal Order; and

(c) precludes the enforcement of certain claims in connection with contracts or transactions which are affected by the principal Order.

This Order also amends article 33(2) of the principal Order to include additional bases on which a licence may be granted to authorise conduct which would otherwise be subject to prohibitions set out in articles 25 to 29 of the principal Order. This gives effect to provision made in Council Regulation (EU) No 36/2012, Council Regulation (EU) No 1332/2013 (OJ No L 335, 14.12.2013, p3) and Council Regulation (EU) No 124/2014 (OJ No L 40, 11.2.2014, p8).

This Order also makes minor corrections to the principal Order.

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