
STATUTORY INSTRUMENTS

2004 No. 1112

OVERSEAS TERRITORIES

The Liberia (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004

<i>Made</i>	- - - -	<i>14th April 2004</i>
<i>Laid before Parliament</i>		<i>15th April 2004</i>
<i>Coming into force</i>	- -	<i>16th April 2004</i>

At the Court at Windsor Castle, the 14th day of April 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833⁽¹⁾, the British Settlements Acts 1887 and 1945⁽²⁾, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1.—(1) This Order may be cited as the Liberia (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004 and shall come into force on 16th April 2004.

(2) This Order and the Liberia (Restrictive Measures) (Overseas Territories) Order 2004⁽³⁾ (hereinafter referred to as “the principal Order”) may be cited together as the Liberia (Restrictive Measures) (Overseas Territories) Orders 2004.

Amendment of the principal Order

2. In Article 1(3) of the principal Order, “Articles 3,4 and 5” shall be replaced by “Articles 3,4,5 and 8A”.

3. In Article 2 of the principal Order there shall be inserted alphabetically the following definitions—

(1) 1833 c. 85.

(2) 1887 c. 54 and 1945 c. 7.

(3) S.I. 2004/347.

““designated person” means Charles Taylor, Jewell Howard Taylor, Charles Taylor, Jr. or any other person or entity designated by the Committee, established pursuant to resolution 1521 adopted by the Security Council of the United Nations on 22nd December 2003, for the purposes of resolution 1532 adopted by the Security Council on 12th March 2004;”

““funds, other financial assets or economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit;”

““relevant institution” means—

- (a) the person or body responsible for carrying out in the Territory the functions of a monetary authority;
- (b) any person who may lawfully accept deposits in or from within the Territory by way of business; and
- (c) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;”

and Article 2 shall be renumbered Article 2(1).

4. After Article 2(1) the following paragraphs shall be inserted—

“(2) For the purpose of the definition of “relevant institution” in paragraph (1) of this article—

- (a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000(4); and
- (b) a person is not regarded as accepting deposits by way of business if—
 - (i) he does not hold himself out as accepting deposits on a day to day basis, and
 - (ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(3) In determining for the purposes of paragraph (2)(b)(ii) of this article whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.

(4) For the purposes of identifying a “designated person” referred to in paragraph (1) of this article, the Governor shall cause a notice containing the names and other particulars of such designated persons to be published in the Gazette of the Territory as necessary from time to time.”.

5. After Article 8 of the principal Order, the following shall be inserted—

“FUNDS, OTHER FINANCIAL ASSETS OR ECONOMIC RESOURCES

Making funds, other financial assets or economic resources available to any designated person

8A. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds, other financial assets or economic resources available to or for the benefit of any designated person shall be guilty of an offence under this Order.

Freezing of funds, other financial assets or economic resources

8B.—(1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds, other financial assets or economic resources are held is or may be a designated person, the Governor may by notice direct that those funds, other financial assets or economic resources are not to be made available to any person or entity except under the authority of a licence granted by the Governor under article 8A.

(2) A direction given under paragraph (1) shall specify either—

(a) the period for which it is to have effect; or

(b) that the direction is to have effect until it is revoked by notice under paragraph (3).

(3) The Governor may by notice revoke a direction given under paragraph (1) at any time.

(4) The expiry or revocation of a direction shall not affect the application of article 8A in respect of the funds, other financial assets or economic resources in question.

(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds, other financial assets or economic resources in question (“the recipient”), and shall require the recipient to send a copy of the notice without delay to the person whose funds, other financial assets or economic resources they are, or on whose behalf they are held (“the owner”).

(6) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds, other financial assets or economic resources are held may apply to the Supreme Court for the direction to be set aside; and on such application the court may set aside the direction.

(8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds, other financial assets or economic resources are held), not later than seven days before the date fixed for the hearing of the application.

(9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.

(10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence under this Order.

Facilitation of activities prohibited under article 8A or 8B(9)

8C. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 8A or 8B(9) is guilty of an offence under this Order.

Failure to disclose knowledge or suspicion of measures

8D.—(1) A relevant institution is guilty of an offence if—

(a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time—

- (i) is a designated person; or
 - (ii) has committed an offence under article 8A, 8B(9) or 10(2); and
 - (b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.
- (2) Where a relevant institution discloses to the Governor—
- (a) its knowledge or suspicion that a person is a designated person or a person who has committed an offence under article 8A, 8B(9) or 10(2), or
 - (b) any information or other matter on which that knowledge or suspicion is based, the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.”.
- 6.** In article 17(1) of the principal Order, the words “7(2) or 8(3)” shall be replaced by the words “7(2),8(3),8A,8B(9), or 8C”.
- 7.** In article 17(3) of the principal Order, before the words “10(1)” shall be inserted the words “8B(10),8D,”.
- 8.** In paragraph 1 of Schedule 2 to the principal Order, the words “7(2) or 8(3)” shall be replaced by the words “7(2),8(3),8A,8B(9), or 8C”.
- 9.** In paragraph 2 of Schedule 2 to the principal Order, before the words “10(1)” shall be inserted the words “8B(10),8D,”.

A. K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Liberia (Restrictive Measures) (Overseas Territories) Order 2004 (S.I.2004/347) to give effect to resolution 1532, adopted by the Security Council of the United Nations on 12th March 2004, which imposed an asset freeze on former President Charles Taylor, his immediate family members, senior officials of the former Taylor regime and other close allies and associates, as designated by the Committee established pursuant to resolution 1521 adopted by the Security Council on 22nd December 2003.