

**EXPLANATORY MEMORANDUM TO**  
**THE SOMALIA (ASSET-FREEZING) REGULATIONS**

**2010 No. 2956**

**1.** This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 These Regulations provide criminal penalties for breach of the financial restrictions imposed by Council Regulation (EU) No. 356/2010 (OJ L 105, 27.4.2010, p. 1) on persons listed in Annex I to that Regulation. The Regulations also make provision for the Treasury to grant licences to exempt actions from the financial restrictions and provide powers to obtain information to maintain the restrictions.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 On 20 November 2008 the United Nations Security Council adopted Resolution 1844 (2008) which, amongst other matters, required Member States to freeze the assets of those identified by the Committee established under that resolution as either a) engaging in or providing support for acts that threaten the peace, security or stability of Somalia, or b) as having acted in violation of the general and complete arms embargo in relation to Somalia, or c) as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of humanitarian assistance in Somalia. It also prohibited anyone from making funds or economic resources available to designated persons.

4.2 On 19 March 2010, the United Nations Security Council adopted Resolution 1916(2010) which amended Resolution 1844(2008) in particular by providing that for a period of 12 months, the provisions of Resolution 1844(2008) imposing an asset freeze should not apply to the payment of funds or other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia by the United Nations, its specialized agencies or programmes, humanitarian organisations having observer status with the United Nations or their implementing partners. On 12 April 2010 the Committee established under Resolution 1844 (2010) published the list of individuals identified as fulfilling the criteria for an asset freeze.

4.3 Council Regulation (EU) 356/2010 of 26 April 2010 implements the requirements of the United Nations Security Council Resolutions in the European Union. The

Regulation requires Member States of the European Union to determine the sanctions to be imposed when provisions of the Regulation are infringed.

4.4 The effect of these Regulations is to provide for the enforcement of financial restrictions imposed on persons listed in Annex I to the Council Regulation. Provision is made for references to Annex I to be construed as references to that Annex as amended from time to time.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom and, outside the United Kingdom, to British citizens and those with a UK connection.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- What is being done and why

7.1 The UK is required by UNSCR 1844 (2008) as amended by UNSCR 1916(2010) and by EU Regulation 356/2010 to implement financial restrictions against those persons identified by these instruments by reason of their actions in relation to Somalia. Financial restrictions aim to prevent such actions by stopping funds or economic resources from being used for purposes connected to those actions. It is a preventative measure that works by denying those persons designated the ability to raise and move funds; stopping the use of funds already in the financial system; and disrupting the activities of designated persons. They are an important and valuable tool in combating activities that seek to disrupt good governance in other countries. They also help prevent the UK financial sector from being unknowingly used to support such disruptive activities.

7.2 The Regulations provide a mechanism for implementing and administering financial restrictions against persons identified for their activities in relation to Somalia, consistent with UNSCR 1844, and subsequent resolutions, and the provisions of the EU Regulation. They establish penalties for breaching the prohibitions of the EU Regulation or failing to comply with the requirements of the Regulations. The EU Regulation is directly applicable in UK law but penalties for its breach require UK secondary legislation.

7.3 The Regulations:

- define a designated person as being a person listed in Annex I to the Council Regulation;

- define the scope of the prohibitions that apply to the freezing of funds and economic resources and also to the making available of funds and economic resources to, or for the benefit of, a designated person;
- provide penalties for breach of the prohibitions;
- provide a mechanism for granting licences and create an offence where a person knowingly or recklessly provides false information or documents to obtain a licence or fails to comply with the conditions of a licence; and
- include provisions for the gathering and sharing of information and create an offence for failing to comply with or obstructing the Treasury's exercise of these powers.

7.4 The Regulations provide that references to Annex I of the Council Regulation should be construed as a reference to Annex I as amended from time to time. The purpose of this is to allow for amendments to Annex I, which contains the list of designated persons, to take immediate effect in the United Kingdom.

## **8. Consultation outcome**

8.1 There has been no consultation on this instrument.

## **9. Guidance**

9.1 General guidance with regard to financial sanctions and the relevant legislation is available on Her Majesty's Treasury website ([www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)). In addition, the Treasury release financial sanctions notifications at any time when there is a substantive change.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is negligible, because these Regulations do not themselves impose requirements, but only put in place penalties in relation to activities which are prohibited by the directly effective Council Regulation.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument, because any impact results from the Council Regulation rather than these Regulations which only provide for enforcement powers.

## **11. Regulating small business**

11.1 The legislation applies to small business. The Treasury work with the financial sector on the requirements for complying with the asset freezing measures set out in the Council Regulation. The Treasury have provided detailed guidance to assist business in complying with these measures.

## **12. Monitoring & review**

12.1 This instrument will be monitored and reviewed at any point when the EU Regulation is amended.

## **13. Contact**

The Asset Freezing Unit at Her Majesty's Treasury Tel: 020 7270 545 or email: [AFU@hmtreasury.gsi.gov.uk](mailto:AFU@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.