
STATUTORY INSTRUMENTS

2011 No. 2440

**The Belarus (Restrictive Measures)
(Overseas Territories) Order 2011**

FUNDS AND ECONOMIC RESOURCES

Freezing funds and economic resources

15.—(1) A person (including a listed person) shall not deal with funds or economic resources owned, held or controlled by a listed person, subject to article 17, unless they do so under the authority of a licence granted under article 20.

(2) A person who contravenes the prohibition in paragraph (1) shall be guilty of an offence under this Order.

(3) In proceedings for an offence under this article, it is a defence for a person to show that they did not know and had no reasonable cause to suspect that the funds or economic resources were owned, held or controlled by a listed person.

(4) In this article, “to deal with” means—

(a) in respect of funds—

(i) to use, alter, move, allow access to or transfer;

(ii) to deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or;

(iii) to make any other change that would enable use, including portfolio management; and

(b) in respect of economic resources, to exchange or use in exchange for funds, goods or services.

Making funds and economic resources available

16.—(1) A person (including a listed person) shall not make funds or economic resources available, directly or indirectly, to or for the benefit of a listed person, subject to article 17, unless they do so under the authority of a licence granted under article 20.

(2) A person who contravenes the prohibition in paragraph (1) shall be guilty of an offence under this Order.

(3) In proceedings for an offence under this article, it is a defence for a person to show that they did not know and had no reasonable cause to suspect funds or economic resources were being made available, directly or indirectly, to or for the benefit of a listed person.

Exceptions

17.—(1) A person (including a listed person) is not guilty of an offence under article 15 or 16 if they credit a frozen account with—

(a) interest or other earnings due on the account; or

- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which the account holder became a listed person.
- (2) Article 15 applies to any funds credited to a frozen account in accordance with this article.
- (3) It is not an offence under article 16 for a person to credit a frozen account which is in receipt of funds transferred by a third party to a frozen account.
- (4) In this article: “third party” means a person other than the account holder or the person with which the account is maintained.

Circumventing prohibitions etc

18. A person shall be guilty of an offence under this Order if they participate, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to—

- (a) circumvent a prohibition in article 15(1) or 16(1); or
- (b) enable or facilitate the commission of an offence under article 15(2) or 16(2).

Governor’s powers to give directions

19.—(1) Where the Governor has reasonable grounds for suspecting that a person is a listed person, the Governor may give a direction that such person is a listed person for the purposes of this Order.

- (2) The Governor may vary or revoke such a direction at any time.
- (3) A direction under paragraph (1) has effect—
 - (a) for such a period as the Governor may specify in the direction, or
 - (b) until the direction is revoked or set aside.
- (4) Where the Governor gives a direction the Governor shall—
 - (a) take such steps as the Governor considers appropriate to publicise the direction;
 - (b) give written notice to the person identified in the direction; and
 - (c) if the direction is varied or revoked—
 - (i) give written notice of the variation or revocation to the person identified in the direction; and
 - (ii) take such further steps as the Governor considers appropriate to publicise the variation or revocation.
- (5) The Supreme Court may set aside a direction on the application of—
 - (a) the person identified in the direction, or
 - (b) any other person affected by the direction.

(6) A person who makes an application under paragraph (5) shall give a copy of the application and any witness statement or affidavit in support to the Governor not later than seven days before the date fixed for the hearing by the Supreme Court of the application.

Licences

20.—(1) The Governor may grant a licence to disapply the prohibition in article 15(1) or 16(1) in relation to the acts specified in the licence.

- (2) A licence may relate to—

- (a) payment of basic expenses of listed persons and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines, medical treatment, taxes, insurance premiums and public utility charges;
 - (b) payment of reasonable professional fees;
 - (c) reimbursement of incurred expenses associated with the provision of legal services;
 - (d) payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;
 - (e) payment of extraordinary expenses as determined by the Governor, 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 two weeks before the Governor's authorisation of payment.
- (3) A licence may be—
- (a) general or granted to a category of persons or to a particular person;
 - (b) subject to conditions; and
 - (c) of indefinite duration or subject to an expiry date.
- (4) The Governor may vary or revoke a licence at any time.
- (5) The Governor, where he grants, varies or revokes a licence, shall—
- (a) in the case of a licence granted to a particular person, give written notice of the licence, variation or revocation to that person, and
 - (b) in the case of a general licence, or of a licence granted to a category of persons, take such steps as the Governor considers appropriate to publicise the licence, variation or revocation.