EXPLANATORY MEMORANDUM TO

THE LIBYA (ASSET-FREEZING) (AMENDMENT) REGULATIONS 2012

2012 No. 56

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations amend the Libya (Asset-Freezing) Regulations 2011 (S.I. 2011/605), which put in place penalties for breach of EU financial sanctions in relation to Libya. These Regulations give effect to Council Regulation (EU) No. 1360/2011 of 20 December 2011 (OJ L 341, 22.12.2011, p.18) (the "amending Council Regulation"), amending Council Regulation (EU) No. 204/2011 concerning restrictive measures in view of the situation in Libya (the "principal Council Regulation"). The amending Council Regulation removed the Central Bank of Libya and the Libyan Arab Foreign Bank from the list of entities subject to a partial asset freeze.

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

3.1 These Regulations have been laid before Parliament less than 21 days before they come into force. The amending Council Regulation came into force on the day of its publication in the Official Journal, on 22 December 2011. It is important to remove criminal penalties for dealing with the assets of the Central Bank of Libya and the Libyan Arab Foreign Bank as soon as possible.

3.2 The Treasury has issued guidance on the requirements of the Libya (Asset-Freezing) Regulations 2011. The Treasury also provides a dedicated email address and telephone number to deal with queries from the financial sector and other affected persons.

4. Legislative Context

These Regulations amend the Libya (Asset-Freezing) Regulations 2011 (S.I. 2011/605). They reflect amendments made by the amending Council Regulation to the principal Council Regulation.

5. Territorial Extent and Application

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 These Regulations amend the Libya (Asset-Freezing) Regulations 2011, which provide for penalties for breach of the asset freezing measures contained in the principal Council Regulation. The principal Council Regulation has direct effect and requires Member States to put in place effective, proportionate and dissuasive penalties for infringements of the principal Council Regulation.

7.2 The principal Council Regulation was amended by Council Regulation (EU) No. 965/2011 of 28 September 2011 so that four entities (the Central Bank of Libya, Libyan Arab Foreign Bank (also known as the Libyan Foreign Bank), Libyan Investment Authority and Libyan Arab Investment Portfolio) became subject to a partial asset freeze.

7.3 The amending Council Regulation amended the principal Council Regulation by removing the Central Bank of Libya and the Libyan Arab Foreign Bank from the list of entities subject to the partial asset freeze. These Regulations provide that the penalties contained in the Libya (Asset-Freezing) Regulations 2011 (S.I. 2011/605) will no longer apply in respect of those two entities.

- Consolidation

7.4 There are no plans to consolidate the relevant legislation.

8. Consultation outcome

No consultation has been carried out in relation to these Regulations.

9. Guidance

Guidance on the asset freezing measures in relation to Libya is available on the Treasury's website. The Treasury's Asset Freezing Unit operates a free subscription email service alerting subscribers to changes to the asset freezing regime and to other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing regime. A notice explaining the amending Council Regulation is available on the Treasury website and has been emailed to subscribers.

10. Impact

10.1 The impact on business, charities and voluntary bodies is negligible, because these Regulations do not themselves impose requirements, but only provide that the penalties contained in the Libya (Asset-Freezing) Regulations 2011 no longer apply in respect of two entities.

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 amending Council Regulation rather than these Regulations.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the Treasury work with the financial sector on the requirements for complying with the asset freezing measures and other financial restrictions set out in the principal Council Regulation. The Treasury have provided detailed guidance to assist business in complying with these measures.

12. Monitoring & review

The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breach of the restrictions imposed by the principal Council Regulation if it is amended or repealed.

13. Contact

The Asset Freezing Unit of the Treasury Tel: 020 7270 5454 or email: AFU@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.