

EXPLANATORY MEMORANDUM TO
THE BELARUS (RESTRICTIVE MEASURES) (OVERSEAS TERRITORIES)
ORDER 2006

2006 No. 1909

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

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

2. Description

This instrument, The Belarus (Restrictive Measures) (Overseas Territories) Order 2006 (“the Order”), gives effect in Overseas Territories to asset freeze measures imposed by Council Common Position 2006/276/CFSP adopted by the Council of the European Union on 10 April 2006 as amended by Council Common Position 2006/362/CFSP adopted on 18 May 2006. These EU measures subject members of the leadership and certain officials of Belarus, who are responsible for violations of electoral standards and the crackdown on civil society and democratic opposition in Belarus, to a travel ban and asset freeze.

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

3.1 None. The Order will be made at the Privy Council meeting on 19th July 2006 and laid before Parliament on the following day. The Order will come into force the day after it is laid so that sanctions can be enforced immediately.

4. Legislative Background

The EU Common Positions require a travel ban and asset freeze to be imposed on specified members of the leadership and certain officials of Belarus. The persons subject to the asset freeze are listed in Annex IV to Council Common Position 2006/362/CFSP. Within the European Union, the asset freeze was imposed by Council Regulation (EC) No 765/2006 while the travel ban was to be given effect by Member States. The financial sanctions require to be given effect in the Overseas Territories by this Order, which is made in exercise of the powers conferred by the royal prerogative in the absence of statutory powers to implement a stand-alone EU measure in the Territories. The Order contains prohibitions on dealing with funds of listed persons and making funds available to such persons, backed by criminal penalties and investigative powers. The travel ban is given effect under existing Overseas Territories’ legislation.

5. Extent

This instrument applies to the following territories: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St Helena and Dependencies, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia in the island of Cyprus, Turks and Caicos Islands and the Virgin Islands. All the territories were consulted. Bermuda requires to make its own provision as the UK is unable to legislate for Bermuda using prerogative powers. The asset freeze is given effect in Gibraltar by the EC Regulation.

6. European Convention on Human Rights

6.1 This Order is made under the Royal Prerogative and although laid is not subject to any Parliamentary procedure. There are no human rights implications.

7. Policy Background

7.1 The UK fully supports the EU measures against the leadership and certain officials responsible for the violations of international electoral standards in the Presidential elections in Belarus on 19 March 2006 and the crackdown on civil society and democratic opposition.

7.2 This Order represents the UK's compliance in respect of the applicable Overseas Territories with the obligation of implementing the EU financial sanctions.

8. Impact

7.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

7.2 The impact on the public sector is negligible.

9. Contact

David Ballantyne at the Foreign and Commonwealth Office, Tel: 020 7008 2131 or e-mail: david.ballantyne@fco.gov.uk, can answer queries regarding the instrument.