

EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DESIGNATION) (NO. 3) ORDER 2010

2010 No. 1834

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

2. Purpose of the instrument

2.1 This Order designates the Secretary of State and the Treasury so that they may exercise the powers conferred by section 2(2) of the European Communities Act 1972 (“section 2(2)”) in relation to restrictive measures against persons or bodies listed by an international organisation.

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

3.1 This Statutory Instrument comes into force on the same day as it is laid before Parliament. This is because it designates the Secretary of State and the Treasury in order that Council Regulation (EU) No 356/2010 (“the Regulation”) can be enforced in the United Kingdom. The Regulation was published on 26 April 2010 and came into force on the same day. In order to comply with its EU obligations the Government intends to introduce penalties for the infringement of the Regulation without delay.

4. Legislative Context

4.1 Section 2(2) confers a power which may be exercised by a designated Minister or government department.

4.2 A designated Minister or government department can make provision by order, rules, regulations or scheme for the purpose of enabling an EU right to be exercised or implementing an EU obligation (or to deal with matters arising out of or related to any such obligation) in relation to the subject matter of the designation.

4.3 The Regulation imposes certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia. It implements (so far as is possible within the framework of the Treaty on the Functioning of the European Union) additional admission and financial restrictive measures and measures relating to arms and related assistance and services imposed by the United Nations in accordance with United Nations Security Council Resolution 1844 (2008) against individuals and entities designated by the United Nations as engaging in or providing support for acts that threaten the peace, security or stability of Somalia, as having acted in violation of an arms embargo, or as obstructing the delivery of humanitarian assistance to Somalia. On 12 April 2010 the United Nations Sanctions

Committee adopted a list of persons and entities subject to those measures. That list was adopted by Council Decision 2010/231/CFSP (“the Decision”), and implemented into EU law by the Regulation.

4.4 The designation includes but is not restricted to obligations concerning restrictive measures against persons or bodies listed by an international organisation covered by the Regulation. It could also apply in relation to obligations arising from a future instrument, for example in relation to another country, that concerns restrictive measures against persons or bodies listed by an international organisation such as the United Nations.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Secretary of State proposes to make legislation under section 2(2) to implement the Regulation. This Order designates the Secretary of State and the Treasury for that purpose.

7.2 In order for the Regulation to be implemented, it is necessary for new regulations to be adopted. More specifically, the Secretary of State intends to make regulations to introduce penalties for the infringement of the Regulation.

8. Consultation outcome

8.1 As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no consultation was carried out.

9. Guidance

9.1 As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no guidance has been prepared in relation to it.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

11. Regulating small business

11.1 The Order does not apply to small business.

12. Monitoring and review

12.1 The designations in this and similar Orders are intended to identify clearly the subject areas in relation to which a Minister or government department is designated.

12.2 The designations contained in this Order will be subject to review before any further designations are made in relation to related subject areas, with this end in mind.

13. Contact

13.1 Les Saunders at the Cabinet Office European Secretariat, Tel: 020 7276 0190 or email: Les.Saunders@cabinet-office.x.gsi.gov.uk; or Ellen Lawrence, Tel: 0207 276 0241 or email: Ellen.Lawrence@cabinet-office.x.gsi.gov.uk, can answer any queries regarding the instrument.

Cabinet Office
European and Global Issues Secretariat
21st July 2010