

EXPLANATORY MEMORANDUM TO
THE LIBYA (FINANCIAL SANCTIONS) ORDER 2011

2011 No. 548

1. This explanatory memorandum has been prepared by Her Majesty's 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 This Order implements in the United Kingdom the asset freezing measures contained in United Nations Security Council Resolution 1970 (2011) ("the Security Council Resolution"). The Order prohibits any dealing with the funds and economic resources of certain individuals and entities, and the making available of funds or economic resources to or for the benefit of those persons.

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

3.1 This Order came into force before it was laid before Parliament. The Security Council Resolution was adopted on 26th February 2011. The Order was made at a meeting of the Privy Council on 27th February 2011 and came into force later that day. Given the seriousness of the risks addressed by the Security Council Resolution, which imposes measures in response to the gross and systematic violation of human rights in Libya, and the risk of asset flight, it was considered essential that the asset freezing measures were implemented immediately. Notification is being sent to the Speaker of the House of Commons and the Speaker of the House of Lords, as required by section 4 of the Statutory Instruments Act 1946 (c. 36).

4. **Legislative Context**

4.1 The Security Council Resolution requires States to take measures to freeze the assets of Colonel Muammar Mohammed Abu Minyar Qadhafi and other individuals and entities identified by the Security Council. This Order is made under section 1 of the United Nations Act 1946 (c.45) in order to implement these measures. It is expected that the EU will shortly take collective action to implement the measures.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

As the instrument is not subject to Parliamentary approval and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 The United Nations Act 1946 provides that decisions of the Security Council of the United Nations may be given effect in the United Kingdom by Order in Council. This Order gives effect to the asset freezing measures contained in the Security Council Resolution. The Resolution requires states to freeze the funds of Colonel Muammar Mohammed Abu Minyar Qadhafi and other designated persons involved in or complicit in ordering the commission of serious human rights abuses against persons in Libya. The Order requires that the funds, other financial assets and economic resources of such persons, persons acting on their behalf or at their direction and entities owned or controlled by them, are frozen, and prevents the making available of funds, other financial assets or economic resources to or for the benefit of designated persons. The Treasury may grant licences to exempt activities from the prohibitions contained in the Order in certain circumstances, in accordance with the provisions of the Resolution.

7.2 The Order:

- defines a designated person as being a person listed in Annex II of the Security Council Resolution, or designated by the Committee established under the Resolution;
- defines the scope of the prohibitions that apply to the freezing of funds, other financial assets, and economic resources and also to the making available of funds, other financial assets and economic resources to, or for the benefit of, a designated person;
- provides penalties for breaches of the prohibitions;
- provides a mechanism for granting licences and creates 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;
- includes provisions for the gathering and sharing of information and creates an offence for failing to comply with or obstructing the Treasury's exercise of these powers.

8. Consultation outcome

8.1 No consultation has been carried out given the nature of the Order and the need to implement the asset freezing measures contained in the Resolution quickly to prevent asset flight.

9. Guidance

9.1 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 services alerting subscribers on changes to the asset freezing regime. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing regimes. A notice explaining the asset freezing measures required by the Security Council Resolution is available on the Treasury website and was emailed to subscribers.

10. Impact

10.1 No formal impact assessment has been carried out given the need to give effect to the UN measures quickly. However, the impact on business, charities or voluntary bodies is expected to be minimal since businesses should already have procedures in place for complying with existing sanctions regimes. The Treasury will also have powers to grant licences providing for exemptions from the new restrictions in certain cases.

10.2 The impact on the public sector is similarly expected to be minimal.

10.3 An Impact Assessment has not been prepared for this instrument.

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 asset freezing measures required by UN or EU asset freezing measures. The Treasury have provided detailed guidance to assist business in complying with these measures.

12. Monitoring & review

12.1 The Security Council Resolution provides that the Security Council will keep the Libyan authorities' actions under continuous review and be prepared to review the appropriateness of the measures in the resolution. The Treasury will review the measures giving effect to the Security Council Resolution in response to any such review by the UN and in the light of any relevant action taken by the EU.

13. Contact

Matthew Myers at the Asset Freezing Unit of HM Treasury Tel: 020 7270 5991 or email: matthew.myers@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.