

EXPLANATORY MEMORANDUM TO
THE FINANCIAL RESTRICTIONS (IRAN) ORDER 2012

2012 No. 2904

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

2. Purpose of the instrument

2.1 This Order contains a direction imposing financial restrictions in relation to Iran. The direction is given in response to the risk posed to the national interests of the United Kingdom by activity in Iran that facilitates the development or production of nuclear weapons, and in response to advice from the Financial Action Task Force that counter measures should be taken in relation to Iran because of the risk of terrorist financing or money laundering activities being carried on in the country. The direction requires the United Kingdom financial sector to cease dealings with Iranian banks and their subsidiaries.

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

3.1 None.

4. Legislative Context

4.1 This Order replaces the Financial Restrictions (Iran) Order 2011 (S.I. 2011/2775), which contained a direction in the same terms. The 2011 Order ceases to have effect one year after it was made, in accordance with paragraph 16(4) of Schedule 7 to the Counter-Terrorism Act 2008.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Commercial Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Financial Restrictions (Iran) Order 2012 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 The Order contains a direction to UK credit and financial institutions to cease all transactions and business relationships with Iranian banks and their subsidiaries, and the Central Bank of Iran. These restrictions are imposed because of the role of Iranian banks in activity in Iran that facilitates the development or production of nuclear weapons. It is considered that a direction to cease business with Iranian banks and their subsidiaries contributes to addressing the risk to UK national interests posed by Iran's proliferation sensitive activities and is a suitable measure to address the risk of terrorist financing and money laundering activities.

7.2 The Treasury gave a direction in the same terms one year ago. That direction, contained in the Financial Restrictions (Iran) Order 2011, ceases to have effect after one year. The Treasury considers that, given the continuing risk to UK national interests, it is appropriate to give a new direction.

- Consolidation

7.3 There are currently no plans to consolidate the relevant legislation.

8. Consultation outcome

8.1 Given the nature of the Order, no formal consultation procedure was carried out. Officials from the British Bankers' Association were consulted on an informal basis, and we have also liaised closely with the Financial Services Authority, the Department for Business, Innovation and Skills and HM Revenue and Customs.

9. Guidance

9.1 A guidance note giving further explanation of the requirements and effects of the direction has been prepared by the Treasury and is available on the Treasury website. In addition, the Financial Services Authority and HMRC have issued general guidance on complying with a direction given under Schedule 7, and BIS is issuing a notice to exporters who may have trading links with Iran

10. Impact

10.1 The impact on business, charities or voluntary bodies is expected to be minimal, since the direction is in the same terms as that contained in the Financial Restrictions (Iran) Order 2011, and will not require any change in existing compliance procedures. Provision is made under Schedule 7 to the Counter-Terrorism Act 2008 for the Treasury to license exemptions from the restrictions, and the Treasury proposes to grant licences in similar terms to those in place in relation to the 2011 Order.

10.2 The impact on the public sector is similarly minimal.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website.

11. Regulating small business

11.1 The legislation applies to small businesses that are credit and financial institutions, with a number of exclusions for certain firms that have only limited, occasional or incidental financial activities.

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 Order. The Treasury have provided detailed guidance to assist business in complying with these measures.

12. Monitoring & review

12.1 The direction has a time limit of one year. The Treasury will keep the direction under review and are required by paragraph 38 of Schedule 7 to the Counter-Terrorism Act 2008 to report every year to Parliament on the exercise of their functions under the Schedule.

13. Contact

Emily Bayley at the Treasury Tel: 0207 270 5454 or email: afu@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.