

2021 No. 37

OVERSEAS TERRITORIES

SANCTIONS

The Libya (Sanctions) (Overseas Territories) Order 2021

Made - - - - - *13th January 2021*

Laid before Parliament *14th January 2021*

Coming into force - - - *15th January 2021*

At the Court at Windsor Castle, the 13th day of January 2021

Present,

The Queen's Most Excellent Majesty in Council

Under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 26th February 2011, called upon Her Majesty's Government in the United Kingdom to apply certain measures to give effect to decisions of that Council in relation to Libya(a):

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(b), section 63(3)(c) and (4) of the Sanctions and Anti-Money Laundering Act 2018(c), section 112 of the Saint Helena Act 1833(d), the British Settlements Acts 1887 and 1945(e), and of all other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Libya (Sanctions) (Overseas Territories) Order 2021 and comes into force on the day after the day on which it is laid before Parliament.

(2) This Order extends to each British overseas territory listed in Schedule 1.

(a) The Security Council of the United Nations adopted resolution 1970 (2011) (arms embargo, travel ban and asset-freeze) on 26 February 2011 ("resolution 1970"). Paragraph 15 of resolution 1970 requires States to take necessary measures to prevent the entry into or transit through their territories of persons designated pursuant to paragraph 24 of that resolution.

(b) 1946 c. 45.

(c) 2018 c. 13.

(d) 1833 c. 85.

(e) 1887 c. 54 and 1945 c. 7.

Extension of the Libya (Sanctions) (EU Exit) Regulations 2020

2. The Libya (Sanctions) (EU Exit) Regulations 2020(a) as amended from time to time extend to each British overseas territory listed in Schedule 1 with the modifications specified in Schedule 2.

Extension of the Sanctions and Anti-Money Laundering Act 2018

3. Subject to the modification set out in paragraph (c), the following provisions of the Sanctions and Anti-Money Laundering Act 2018 extend to each British overseas territory listed in Schedule 1 for the purposes of the Libya (Sanctions) (EU Exit) Regulations 2020 as modified and extended to the territories by this Order—

- (a) section 44 (protection for acts done for purposes of compliance);
- (b) section 52(3) (Crown application);
- (c) section 53 (saving for prerogative powers), except that, in its application to a particular British overseas territory, the reference in subsection (1) of that section to the United Kingdom is to be read as a reference to that territory.

Exclusion of UN designated persons from the Territory

4.—(1) A person who is for the time being named for the purposes of paragraph 15 of resolution 1970 by the Security Council or the Committee must not enter, transit or remain in the Territory.

(2) Paragraph (1) does not apply to a person who—

- (a) belongs to the Territory,
- (b) in respect of the Sovereign Base Areas, is permitted to reside in the Sovereign Base Areas under the law applicable to the Sovereign Base Areas.

(3) Paragraph (1) does not apply to a person if—

- (a) the application of that paragraph to that person would be contrary to the United Kingdom's obligations under—
 - (i) the European Convention on Human Rights, or
 - (ii) the Refugee Convention, or
- (b) the person has been exempted from the application of paragraph (1) under a process applying by virtue of a resolution adopted by the Security Council.

(4) The Governor may, with the consent of the Secretary of State, direct that, in relation to any person falling within paragraph (1) whose name is specified, or who is of a specified description, that paragraph has effect subject to specified exceptions.

(5) A direction under this article—

- (a) may contain conditions;
- (b) must be of a defined duration (and that duration may be expressed in any way, including, for example, being expressed in a way such that the direction ceases to have effect on, or within a specified period after, the occurrence of a specified event).

(6) The Governor may, with the consent of the Secretary of State, vary, revoke or suspend a direction under this article at any time.

(7) On the issue, variation, revocation or suspension of a direction under this article, the Governor may take such steps as the Governor considers appropriate to publicise the issue, variation, revocation or suspension of the direction.

(8) The Governor may, to such extent and subject to such restrictions and conditions as the Governor thinks proper, delegate or authorise the delegation of any of the Governor's powers under this article to any person, or class or description of persons, and any references in this article to the Governor are to be construed accordingly.

(a) S.I. 2020/1665.

(9) In the exercise of any power conferred on the Governor by this article, the Governor is to act in their discretion.

(10) In the application of this article to a particular British overseas territory, the expression “the Territory” means that territory.

(11) For the purposes of this article, a person (“P”) belongs to the Territory if—

- (a) in respect of Anguilla, P is an Anguillian (within the meaning given to that term in the law of Anguilla);
- (b) in respect of the Cayman Islands, P is a Caymanian (within the meaning given to that term in the law of the Cayman Islands);
- (c) in respect of the Falkland Islands, P has Falkland Islands status (within the meaning given to that term in the law of the Falkland Islands);
- (d) in respect of Montserrat, P is a Montserratian (within the meaning given to that term in the law of Montserrat);
- (e) in respect of Pitcairn, P has the right of abode in Pitcairn under the law of Pitcairn;
- (f) in respect of St Helena, P has St Helenian status (within the meaning given to that term in the law of St Helena);
- (g) in respect of Tristan da Cunha, P has the right of abode in Tristan da Cunha under the law of Tristan da Cunha;
- (h) in respect of the Turks and Caicos Islands, P is a Turks and Caicos Islander (within the meaning given to that term in the law of the Turks and Caicos Islands);
- (i) in respect of the Virgin Islands, P belongs to the Virgin Islands (within the meaning given to that term in the law of the Virgin Islands).

(12) In this article—

“the Committee” means the Committee of the Security Council established in accordance with paragraph 24 of resolution 1970;

“the European Convention on Human Rights” means the Convention for the Protection of Human Rights and Fundamental Freedoms done at Rome on 4 November 1950 and the Protocols to the Convention(a);

“the Governor” means, in relation to the Territory, the person holding or acting in the office of Governor of the Territory, or, if there is no such office, the officer for the time being administering the Territory;

“Pitcairn” means Pitcairn, Henderson, Ducie and Oeno Islands;

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention(b);

“resolution 1970” means resolution 1970 (2011) adopted by the Security Council on 26 February 2011;

“Security Council” means the Security Council of the United Nations;

“the Sovereign Base Areas” means the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus;

“specified” means specified in a direction under this article.

Revocations

5.—(1) The following are revoked—

- (a) The Libya (Restrictive Measures) (Overseas Territories) Order 2011(c);

(a) ETS Numbers 005, 009, 046, 114, 117, 177, 187 and CETS Numbers 194, 213 and 214.

(b) United Nations Treaty Series, vol. 189, p. 137 and vol. 606, p. 267.

(c) S.I. 2011/1080, amended by S.I. 2011/2717; S.I. 2012/356; S.I. 2013/3160; S.I. 2018/1076; and S.I. 2019/185.

- (b) The Libya (Restrictive Measures) (Overseas Territories) (Amendment) Order 2011**(a)**;
- (c) The Libya (Restrictive Measures) (Overseas Territories) (Amendment) Order 2012**(b)**;
- (d) The Libya (Restrictive Measures) (Overseas Territories) (Amendment) Order 2013**(c)**.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE 1

Article 1(2)

British overseas territories

Anguilla
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena, Ascension and Tristan da Cunha
South Georgia and the South Sandwich Islands
The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus
Turks and Caicos Islands
Virgin Islands

SCHEDULE 2

Article 2

Modifications to be made in the extension of the Libya (Sanctions) (EU Exit) Regulations 2020 to each British overseas territory listed in Schedule 1

1. In regulation 1 (citation and commencement)—
 - (a) in the heading, omit “and commencement”;
 - (b) omit paragraphs (2) and (3).
2. In regulation 2 (interpretation)—
 - (a) the existing text becomes paragraph (1);
 - (b) in that paragraph—
 - (i) in the appropriate places, insert the following definitions—
 - ““aircraft” has the same meaning as it has in section 6(9) of the Act;”;
 - ““authorised officer” means, in relation to the Territory—

(a) S.I. 2011/2717.
(b) S.I. 2012/356.
(c) S.I. 2013/3160.

- (a) a member of Her Majesty’s forces in the Territory,
- (b) a police or customs officer of the Territory,
- (c) a person authorised by the Governor for the purposes of exercising, whether generally or in a particular case, any power conferred by—
 - (i) regulation 58 (finance: powers to request information),
 - (ii) regulation 59 (finance: production of documents),
 - (iii) regulation 61 (trade: information powers),
 - (iv) regulation 63 (general trade licences: inspection of records),
 - (v) regulation 64 (disclosure of information),
 - (vi) regulation 65A (suspected ships, aircraft or vehicles), or
 - (vii) regulation 65B (search warrants), or
- (d) any person acting under the authority of a person falling within any of paragraphs (a) to (c);”;

““financial sanctions licence” means, in relation to the Territory, a licence issued by the Governor under regulation 48(1);”;

““the Governor” is to be read in accordance with regulation 4A;”;

““Her Majesty’s forces” does not include a force of any country, other than the United Kingdom, that is a member of the Commonwealth;”;

““ship” has the same meaning as it has in section 7(14) of the Act;”;

““territorial sea of the Territory” means the territorial sea as defined in an enactment applicable in the Territory or, in the absence of such an enactment, the territorial sea adjacent to the Territory;”;

““Territory aircraft” means, in relation to the Territory—

- (a) an aircraft registered in the Territory, or
- (b) an aircraft which is not registered under the law of a country outside the Territory but is wholly owned by persons each of whom is a Territory person;”;

““Territory person” means, in relation to the Territory, a person who is—

- (a) an individual ordinarily resident in the Territory who is—
 - (i) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (ii) a person who under the British Nationality Act 1981(a) is a British subject, or
 - (iii) a British protected person within the meaning of that Act, or
- (b) a body incorporated or constituted under the law of any part of the Territory;”;

““Territory ship” means, in relation to the Territory—

- (a) a ship registered in the Territory, or
- (b) a ship which is not registered under the law of a country outside the Territory but is wholly owned by persons each of whom is a Territory person;”;

““vehicle” means a land transport vehicle.”;

(ii) omit the definitions of—

- (aa) “the Commissioners”,
- (bb) “Treasury licence”, and
- (cc) “United Kingdom person”;

(c) after that paragraph insert—

(a) 1981 c. 61. Part IV has been amended by the British Overseas Territories Act 2002 (c. 8), section 1(1)(b); and the Nationality, Immigration and Asylum Act 2002 (c. 41), Schedule 2, paragraph 1(i).

“(2) In the application of these Regulations to a particular British overseas territory, the expression “the Territory” means that territory.”

3. In regulation 3 (application of prohibitions and requirements outside the United Kingdom)—

- (a) in the heading, for “United Kingdom” substitute “Territory”;
- (b) in paragraphs (1) and (4), for “United Kingdom person” substitute “Territory person”;
- (c) in paragraphs (1), (4) and (7), for “United Kingdom” substitute “Territory”;
- (d) in paragraphs (2) and (5), after “in the territorial sea” insert “of the Territory”;
- (e) in paragraphs (3) and (6), for “Treasury licence” substitute “financial sanctions licence”.

4. In regulation 4 (purposes), for “The regulations contained in this instrument that are made under section 1 of the Act” substitute “These Regulations”.

5. At the end of Part 1 (General), insert—

“Functions of the Governor

4A.—(1) In these Regulations, “the Governor” means, in relation to the Territory, the person holding or acting in the office of Governor of the Territory, or, if there is no such office, the officer for the time being administering the Territory.

(2) The Governor may, to such extent and subject to such restrictions and conditions as the Governor thinks proper, delegate or authorise the delegation of any of the Governor’s powers under these Regulations to any person, or class or description of persons, and any references in these Regulations to the Governor are to be construed accordingly.

(3) In the exercise of any power conferred on the Governor by these Regulations, the Governor is to act in their discretion.”

6. Omit regulation 5 (power to designate persons) (including the heading).

7. Omit regulation 6 (criteria for designating a person) (including the heading).

8. For regulation 8 (notification and publicity where designation power used), substitute—

“Requirement to publish a list of designated persons

8.—(1) Subject to paragraph (2), the Governor must—

- (a) publish a list of designated persons, and
- (b) keep the list up to date.

(2) Where, in accordance with regulation 8 (notification and publicity where designation power used) (as it has effect in the United Kingdom) the Secretary of State is not required to publicise generally a designation, variation or revocation, the Governor must not include in the list under paragraph (1) any details of that designation, variation or revocation.

(3) The Governor may publish the list under paragraph (1) in any form the Governor considers appropriate, including by means of a website.

(4) For the purpose of this regulation, “designated person” means—

- (a) any person for the time being designated by the Secretary of State under regulation 5 (power to designate persons) (as it has effect in the United Kingdom),
- (b) a person who is a designated person for the purposes of regulations 12 to 16 (asset-freeze etc.) by reason of regulation 10(1) (designation of persons named by or under UN Security Council Resolutions), and
- (c) persons mentioned in regulation 10(3) who are designated persons for the purposes of regulations 18 to 20 (partial asset-freeze etc.). ”

9. In regulation 9 (confidential information in certain cases where designation power used)—

- (a) in the heading, omit “where designation power used”;
- (b) omit paragraph (1);
- (c) in paragraph (2)(a), for “that is to be treated as confidential in accordance with paragraph (1)” substitute “which the Secretary of State has specified is to be treated as confidential under regulation 9(1) (as it has effect in the United Kingdom)”;
- (d) in paragraph (7)—
 - (i) for “High Court (in Scotland, the Court of Session)” substitute “Supreme Court of the Territory”;
 - (ii) omit “(in Scotland, an interdict)”;
- (e) at the end insert—
 - “(9) In this regulation, “Supreme Court of the Territory” means—
 - (a) in relation to Anguilla, Montserrat and the Virgin Islands, the High Court of the Eastern Caribbean Supreme Court;
 - (b) in relation to the Cayman Islands, the Grand Court of the Cayman Islands;
 - (c) in relation to the British Antarctic Territory, the British Indian Ocean Territory, the Falkland Islands, Pitcairn, Henderson, Ducie and Oeno Islands, St Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands and the Turks and Caicos Islands, the Supreme Court of that territory;
 - (d) in relation to the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus, the Senior Judges’ Court of those Areas.”

10. In regulation 10 (designation of persons named by or under UN Security Council Resolutions), omit paragraph (4).

11. For regulation 11 (meaning of “designated person” in Chapter 1) substitute—

- “**11.** In this Chapter, a “designated person” means—
 - (a) a person who is designated from time to time by the Secretary of State under regulation 5 (power to designate persons) (as it has effect in the United Kingdom) for the purposes of regulations 12 to 16 (asset-freeze etc.) (as they have effect in the United Kingdom), or
 - (b) a person who is a designated person for the purposes of regulations 12 to 16 by reason of regulation 10(1) (designation of persons named by or under UN Security Council Resolutions).”

12. For regulation 22 (immigration) substitute—

- “**22.**—(1) A person who is designated from time to time by the Secretary of State under regulation 5 (power to designate persons) (as it has effect in the United Kingdom) for the purposes of regulation 22 (immigration) (as it has effect in the United Kingdom) must not enter, transit or remain in the Territory.
- (2) Paragraph (1) does not apply to a person who—
 - (a) belongs to the Territory, or
 - (b) in respect of the Sovereign Base Areas, is permitted to reside in the Sovereign Base Areas under the law applicable to the Sovereign Base Areas.
- (3) Paragraph (1) does not apply to a person if the application of that paragraph to that person would be contrary to the United Kingdom’s obligations under—
 - (a) the European Convention on Human Rights, or
 - (b) the Refugee Convention.
- (4) Paragraph (1) is subject to regulation 55 (immigration directions).
- (5) For the purposes of this regulation, a person (“P”) belongs to the Territory if—

- (a) in respect of Anguilla, P is an Anguillian (within the meaning given to that term in the law of Anguilla);
- (b) in respect of the Cayman Islands, P is a Caymanian (within the meaning given to that term in the law of the Cayman Islands);
- (c) in respect of the Falkland Islands, P has Falkland Islands status (within the meaning given to that term in the law of the Falkland Islands);
- (d) in respect of Montserrat, P is a Montserratian (within the meaning given to that term in the law of Montserrat);
- (e) in respect of Pitcairn, P has the right of abode in Pitcairn under the law of Pitcairn;
- (f) in respect of St Helena, P has St Helenian status (within the meaning given to that term in the law of St Helena);
- (g) in respect of Tristan da Cunha, P has the right of abode in Tristan da Cunha under the law of Tristan da Cunha;
- (h) in respect of the Turks and Caicos Islands, P is a Turks and Caicos Islander (within the meaning given to that term in the law of the Turks and Caicos Islands);
- (i) in respect of the Virgin Islands, P belongs to the Virgin Islands (within the meaning given to that term in the law of the Virgin Islands).

(6) In this regulation—

“the European Convention on Human Rights” means the Convention for the Protection of Human Rights and Fundamental Freedoms done at Rome on 4 November 1950 and the Protocols to the Convention^(a);

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention^(b);

“Pitcairn” means Pitcairn, Henderson, Ducie and Oeno Islands;

“the Sovereign Base Areas” means the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus.”

13. In regulation 23 (export of restricted goods), at the end insert—

“(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with the offence of contravening paragraph (1) to show that the person did not know and had no reasonable cause to suspect that the export was to, or the goods were for use in, Libya (as the case may be).”

14. In regulation 24 (import of arms and related materiel and internal repression goods), at the end insert—

“(4) A person who contravenes a prohibition in paragraph (1) or (2) commits an offence, but—

(a) it is a defence for a person charged with the offence of contravening paragraph (1) to show that the person did not know and had no reasonable cause to suspect that the goods were consigned from Libya;

(b) it is a defence for a person charged with the offence of contravening paragraph (2) to show that the person did not know and had no reasonable cause to suspect that the goods originated in Libya.”

15. In regulation 25 (supply and delivery of certain goods), in paragraph (4) for “United Kingdom, the Isle of Man” substitute “Territory”.

16. In regulation 27 (transfer of restricted technology) in paragraph (1)(c) for “United Kingdom”, in both places it occurs, substitute “Territory”.

(a) ETS Numbers 005, 009, 046, 114, 117, 177, 187 and CETS Numbers 194, 213 and 214.

(b) United Nations Treaty Series, vol. 189, p. 137 and vol. 606, p. 267.

17. In regulation 30 (brokering services: non-UK activity relating to restricted goods and restricted technology)—

- (a) in the heading, for “non-UK” substitute “non-Territory”;
- (b) in paragraph (1), for “non-UK country”, in each place it occurs, substitute “non-Territory country”;
- (c) for paragraph (4) substitute—
 - “(4) In this regulation—
 - “non-Territory country” means a country that is not the Territory;
 - “third country” means a country that is not the Territory or Libya.”

18. In regulation 31 (enabling or facilitating the conduct of armed hostilities)—

- (a) in paragraph (1)(d), for “non-UK country” substitute “non-Territory country”;
- (b) in paragraph (4), for the definition of “non-UK country” substitute—
 - ““non-Territory country” means a country that is not the Territory;”.

19. In regulation 32 (interpretation of this Part)—

- (a) for paragraph (3) substitute—
 - “(3) For the purposes of this Part—
 - (a) “export” means export from the Territory,
 - (b) “import” means import to the Territory, and
 - (c) goods transported out of the Territory by aircraft or ship as stores within the meaning of CEMA (see section 1(1) and (4) of that Act) are to be regarded as exported.

(3A) Paragraphs 35 and 36 of Schedule 1 to the Act (trade sanctions) apply for the purpose of interpreting expressions in this Part.”
- (b) for paragraph (4) substitute—
 - “(4) In this Part, any reference to the Territory includes a reference to the territorial sea of the Territory.”

20. In regulation 36 (port access or entry for UN designated ships), in paragraphs (1) and (2) for “United Kingdom” substitute “Territory”.

21. In regulation 42 (movement of aircraft)—

- (a) in paragraphs (2) and (3), for “United Kingdom”, in each place it occurs, substitute “Territory”;
- (b) in paragraphs (3) and (5), for “UK airspace”, in each place it occurs, substitute “Territory airspace”;
- (c) for paragraph (11) substitute—
 - “(11) In this regulation, “Territory airspace” means the airspace above the Territory (and includes the airspace above the territorial sea of the Territory).”;
- (d) in paragraph (12) after “in that section” insert “unless otherwise provided in this regulation”;
- (e) at the end insert—
 - “(13) In this Part—
 - “airport” means the aggregate of the land, water, buildings and works comprised in an aerodrome within the meaning of article 3(1) of the ANO;
 - “airport operator”, in relation to the Territory, means a person in charge of the operation of an airport in the Territory;”
 - “air traffic control” means a person providing any of the following services in the Territory—

- (a) an air traffic control service (which has the meaning that it has in article 3(1) of the ANO), or
- (b) a flight information service (which has the meaning that it has in article 3(1) of the ANO);”

“the ANO” means the Air Navigation (Overseas Territories) Order 2013(a).”

22. In regulation 43 (finance: exceptions from prohibitions)—

- (a) omit paragraph (6);
- (b) in paragraph (7), for the definition of “relevant institution” substitute—
 - ““relevant institution”, in relation to the Territory, means a person domiciled in the Territory who would satisfy the threshold conditions for permission under Part 4A of the Financial Services and Markets Act 2000(b) if it had its registered office (or if it does not have one, its head office) in the United Kingdom.”;
- (c) omit paragraph (8).

23. In regulation 45 (aircraft: exceptions)—

- (a) in paragraph (1), for “United Kingdom” substitute “Territory”;
- (b) in paragraphs (2) and (4), for “UK airspace” substitute “Territory airspace”.

24. For regulation 46 (exception for authorised conduct in a relevant country) substitute—

“Exceptions for authorised conduct outside the Territory

46.—(1) Where a person’s conduct outside the Territory would, in the absence of this paragraph, contravene a relevant prohibition, the relevant prohibition is not contravened if the conduct is authorised by a licence issued under regulation 48 (Treasury licences) (as it has effect in the United Kingdom) or regulation 49 (trade licences) (as it has effect in the United Kingdom).

(2) Where a person’s conduct in a relevant country would, in the absence of this paragraph, contravene a relevant prohibition, the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued—

- (a) under the law of the relevant country, and
- (b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

(3) In this regulation—

“relevant country” means—

- (a) any of the Channel Islands,
- (b) the Isle of Man, or
- (c) any British overseas territory other than the Territory;

“relevant prohibition” means a prohibition in any of—

- (a) regulations 12 to 16 (asset-freeze etc.),
- (b) regulations 18 to 20 (partial asset-freeze etc.),
- (c) Chapters 1 and 2 of Part 5 (Trade), or
- (d) regulations 35 (transporting etc. Libyan oil in relation to UN designated ships), 37 (bunkering or ship supply services) or 38 (financial transactions in relation to Libyan oil).

(a) S.I. 2013/2870, amended by S.I. 2014/2925; S.I. 2014/3281; S.I. 2015/1769; and S.I. 2019/853.

(b) 2000 c.8. Part 4A was inserted by the Financial Services Act 2012 (c. 21), section 11(2) and most recently amended by S.I. 2018/1149; it is prospectively amended by S.I. 2019/632.

(4) Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.”

25. For regulation 47 (exception for acts done for purposes of national security or prevention of serious crime), substitute—

“**47.**—(1) Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance), Part 5 (Trade), Part 6 (UN designated ships) or Part 7 (Aircraft) that prohibition does not apply to the act if the act is one which—

- (a) a responsible officer has determined would be in the interests of—
 - (i) national security, or
 - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) the Governor, with the consent of the Secretary of State, has determined would be in the interests of the prevention or detection of serious crime in the Territory.

(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 7, Part 9 (Information and records) or Part 11 (Maritime enforcement), that requirement does not apply if—

- (a) a responsible officer has determined that not doing the thing in question would be in the interests of—
 - (i) national security, or
 - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) the Governor, with the consent of the Secretary of State, has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Territory.

(3) In this regulation, “responsible officer” means a person in the service of the Crown or holding office under the Crown in the United Kingdom, acting in the course of that person’s duty.

(4) Nothing in this regulation affects the application of a prohibition or requirement in a case where it would be incompatible with a UN obligation for the prohibition or requirement not to apply.”

26. For regulation 48 (Treasury licences), substitute—

“Financial sanctions licences

48.—(1) The prohibitions in regulations 12 to 16 (asset-freeze etc.), 18 to 20 (partial asset-freeze etc.) and regulation 38 (financial transactions in relation to Libyan oil) do not apply to anything done under the authority of a licence issued by the Governor under this paragraph.

(2) The Governor may issue a financial sanctions licence only with the consent of the Secretary of State.

(3) Paragraphs (4) and (5) apply to the issuing of a financial sanctions licence which authorises acts which would otherwise be prohibited by regulations 12 to 16.

(4) The Governor may issue a financial sanctions licence which authorises acts by a particular person in relation to a non-UN designated person only where the Governor considers that it is appropriate to issue the licence for a purpose set out in Chapter 1 of Part 1, or in Part 3, of Schedule 4.

(5) The Governor may issue a financial sanctions licence which authorises acts in relation to a UN designated person, other than the Libyan Investment Authority or the Libyan

Africa Investment Portfolio, only where the Governor considers that it is appropriate to issue the licence for a purpose set out in Chapter 1 of Part 1, or in Part 2 of Schedule 4.

(6) Paragraph (7) applies to the issuing of a financial sanctions licence which authorises acts which would otherwise be prohibited by regulations 18 to 20.

(7) The Governor may issue a licence which authorises acts in relation to the Libyan Investment Authority or the Libyan Africa Investment Portfolio only where the Governor considers that it is appropriate to issue the licence for a purpose set out in Part 1 of Schedule 4.

(8) The Governor may issue a financial sanctions licence which authorises acts which would otherwise be prohibited by regulation 38 only where the Governor considers that it is appropriate to issue the licence in order to give effect to an exception made by the Committee to paragraph 10(d) of resolution 2146.

(9) In this regulation “UN designated person” means—

- (a) a person who is a designated person for the purposes of regulations 12 to 16 or regulations 18 to 20 by reason of regulation 10 (designation of persons named by or under UN Security Council Resolutions), or
- (b) a person who is designated under regulation 5 (power to designate persons) (as it has effect in the United Kingdom) for the purposes of regulations 12 to 16 (as they have effect in the United Kingdom) and whose designation is (in the opinion of the Secretary of State) required by paragraph 17 of resolution 1970 (read in accordance with regulation 4(4)).”

27. In regulation 49 (trade licences)—

- (a) the existing text becomes paragraph (1);
- (b) in that paragraph, for “Secretary of State” substitute “Governor”;
- (c) at the end insert—

“(2) The Governor may issue a licence under paragraph (1) only with the consent of the Secretary of State.”

28. In regulation 50 (port licences)—

- (a) the existing text becomes paragraph (1);
- (b) in that paragraph, for “Secretary of State” substitute “Governor”;
- (c) at the end insert—

“(2) The Governor may issue a licence under paragraph (1) only with the consent of the Secretary of State.”

29. In regulation 51 (licences: general provisions)—

- (a) in paragraph (1), for “Treasury licences” substitute “financial sanctions licences”;
- (b) in paragraph (5), after “a licence may” insert “, with the consent of the Secretary of State,”.

30. In regulation 52 (finance: licensing offences), for “Treasury licence”, in both places it occurs, substitute “financial sanctions licence”.

31. For regulation 55 (section 8B(1) to (3) of the Immigration Act 1971: directions) substitute—

“Immigration directions

55.—(1) The Governor may, with the consent of the Secretary of State, direct that, in relation to any person falling within regulation 22 (immigration) whose name is specified, or who is of a specified description, that regulation has effect subject to specified exceptions.

(2) A direction under this regulation—

- (a) may contain conditions;
- (b) must be of a defined duration (and that duration may be expressed in any way, including, for example, being expressed in a way such that the direction ceases to have effect on, or within a specified period after, the occurrence of a specified event).

(3) The Governor may, with the consent of the Secretary of State, vary, revoke or suspend a direction under this regulation at any time.

(4) On the issue, variation, revocation or suspension of a direction under this regulation, the Governor may take such steps as the Governor considers appropriate to publicise the issue, variation, revocation or suspension of the direction.

(5) In this regulation, “specified” means specified in a direction under this regulation.”

32. In regulation 56 (finance: reporting obligations)—

- (a) for “Treasury”, in each place it occurs, substitute “Governor”;
- (b) for paragraph (5) substitute—

“(5) A relevant institution must inform the Governor without delay if that institution credits a frozen account or a relevant account in accordance with regulation 43(4) (finance: exceptions from prohibitions).”

33. For regulation 57 (“relevant firm”) substitute—

“**57.**—(1) The following are relevant firms for the purposes of regulation 56 (finance: reporting obligations)—

- (a) a relevant institution;
- (b) an undertaking that by way of business—
 - (i) operates a currency exchange office,
 - (ii) transmits money (or any representation of monetary value) by any means, or
 - (iii) cashes cheques that are made payable to customers;
- (c) a firm or sole practitioner that provides to other persons, by way of business—
 - (i) accountancy services,
 - (ii) advice about tax affairs,
 - (iii) auditing services,
 - (iv) legal or notarial services, or
 - (v) trust or company services;
- (d) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;
- (e) the holder of a licence to operate a casino in the Territory;
- (f) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—
 - (i) articles made from gold, silver, platinum or palladium, or
 - (ii) precious stones or pearls.

(2) For the purposes of paragraph (1), the following definitions apply—

“estate agency work”, in relation to the Territory, is to be read in accordance with section 1 of the Estate Agents Act 1979(a), but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of

(a) 1979 c. 38. Section 1 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), Schedule 1, paragraph 40; the Planning (Consequential Provisions) Act 1990 (c. 11), Schedule 2, paragraph 42; the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11), Schedule 2, paragraph 28; the Enterprise and Regulatory Reform Act 2013 (c. 24), section 70; S.I. 1991/2684; S.I. 2000/121; and S.I. 2001/1283.

that Act) references to disposing of or acquiring an estate or interest in land outside the Territory where that estate or interest is capable of being owned or held as a separate interest;

“firm” means any entity that, whether or not a legal person, is not an individual, and includes a body corporate and a partnership or other unincorporated body;

“relevant institution” has the same meaning as it has in regulation 43;

“trust or company services” means any of the following services—

- (a) forming companies or other legal persons;
- (b) acting, or arranging for another person to act—
 - (i) as a director or secretary of a company,
 - (ii) as a partner of a partnership, or
 - (iii) in a similar capacity in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- (d) acting, or arranging for another person to act, as—
 - (i) a trustee of an express trust or similar legal arrangement, or
 - (ii) a nominee shareholder for a person.

(3) For the purposes of regulation 56(1), information or another matter comes to a relevant firm “in the course of carrying on its business” if the information or other matter comes to the firm—

- (a) in the case of a relevant firm within paragraph (1)(a), in the course of carrying on an activity in respect of which permission under Part 4A of the Financial Services and Markets Act 2000 would be required if it had its registered office (or if it does not have one, its head office) in the United Kingdom, and
- (b) in the case of a relevant firm within any other provision of paragraph (1), in the course of carrying on an activity mentioned in that provision.”

34. In regulation 58 (finance: powers to request information)—

- (a) in paragraph (1), for “The Treasury” substitute “An authorised officer”;
- (b) in paragraph (2)—
 - (i) for “The Treasury”, in the first place it occurs, substitute “An authorised officer”;
 - (ii) for “the Treasury”, in the second place it occurs, substitute “the authorised officer”;
- (c) in paragraph (4), for “the Treasury believe” substitute “the authorised officer believes”;
- (d) in paragraph (5)—
 - (i) for “The Treasury” substitute “An authorised officer”;
 - (ii) for “Treasury licence” substitute “financial sanctions licence”;
- (e) for paragraph (6) substitute—

“(6) An authorised officer may request a person to provide information within paragraph (7) if the authorised officer believes that the person may be able to provide the information.”;
- (f) in paragraph (7)—
 - (i) for “the Treasury” substitute “the authorised officer”;
 - (ii) in sub-paragraph (b)(iv), for “Treasury licence” substitute “financial sanctions licence”;
- (g) in paragraph (8), for “The Treasury” substitute “The authorised officer”;
- (h) in paragraph (10), for “the Treasury”, in both places it occurs, substitute “the authorised officer”.

35. In regulation 59 (finance: production of documents)—

- (a) in paragraph (2), for “the Treasury request that documents be produced, the Treasury” substitute “an authorised officer requests that documents be produced, the authorised officer”;
- (b) for paragraph (3), substitute—

“(3) Where an authorised officer requests a designated person or a person acting under a financial sanctions licence to produce documents, that person must—

 - (a) take reasonable steps to obtain the documents (if they are not already in the person’s possession or control);
 - (b) keep the documents under the person’s possession or control (except for the purpose of providing them to the authorised officer or as the authorised officer may otherwise permit).”

36. In regulation 60 (finance: information offences), in paragraph (1)(d), for “the Treasury” substitute “an authorised officer”.

37. For regulation 61 (trade: application of information powers in CEMA) substitute—

“Trade: information powers

61.—(1) An authorised officer may request a person who is concerned (in whatever capacity) in a relevant activity to provide such information as the authorised officer may reasonably require about the relevant activity.

(2) The authorised officer may specify the way in which, and the period within which, information is to be provided.

(3) If no such period is specified, the information which has been requested must be provided within a reasonable time.

(4) A request under paragraph (1) may include a request to produce specified documents or documents of a specified description.

(5) Where the authorised officer requests that documents be produced, the authorised officer may—

- (a) take copies or extracts from any document so produced,
- (b) request any person producing a document to give an explanation of it,
- (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
 - (i) in the case of a partnership, a present or past partner or employee of the partnership, or
 - (ii) in any other case, a present or past officer or employee of the body concerned, to give such an explanation, and
- (d) remove, at a reasonable time and for a reasonable period, any document so produced if the authorised officer considers it is necessary to do so.

(6) Where a document has been removed by an authorised officer under paragraph (5)(d)—

- (a) the authorised officer must, on request, provide a receipt for the document;
- (b) if the document is reasonably required for the proper conduct of a business, the authorised officer must, as soon as practicable and free of charge, provide a copy of the document to the person who produced it.

(7) Where a document requested to be produced under paragraph (4) is subject to a lien, the production or removal of the document in accordance with this regulation does not affect, and is not to be regarded as breaking, the lien.

(8) For the purposes of paragraph (1), a “relevant activity” means an activity—

- (a) which would, unless done under the authority of a trade licence, constitute a contravention of any prohibition in Chapter 1 or 2 of Part 5 (Trade) or regulation 35 (transporting etc. Libyan oil in relation to UN designated ships) or 37 (bunkering or ship supply services), or
- (b) which would constitute a contravention of a prohibition in regulation 33 and 39(1) (circumventing etc. prohibitions)."

38. After regulation 61 (trade: information powers) insert—

“Trade: information offences

61A.—(1) A person commits an offence if that person—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request under regulation 61 (trade: information powers);
- (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
- (c) with intent to evade any provision of regulation 61, destroys, mutilates, defaces, conceals or removes any document;
- (d) otherwise intentionally obstructs an authorised officer in the exercise of their powers under regulation 61.

(2) Where a person is convicted of an offence under this regulation, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.”

39. In regulation 62(4) (general trade licences: records), for “Secretary of State” substitute “Governor”.

40. In regulation 63 (general trade licences: inspection of records)—

- (a) in paragraph (1), for “A person authorised by the Secretary of State or the Commissioners (an official)” substitute “An authorised officer”;
- (b) in paragraphs (2) to (5), for “official”, in each place it occurs, substitute “authorised officer”;
- (c) in paragraph (5)(a), for “official’s functions” substitute “authorised officer’s functions”.

41. In regulation 64 (disclosure of information)—

- (a) in paragraph (1), for “Secretary of State, the Treasury or the Commissioners” substitute “Governor or an authorised officer”;
- (b) in paragraph (2)—
 - (i) after sub-paragraph (c) insert—

“(ca) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Territory for an offence under any provisions of these Regulations;”;
 - (ii) in sub-paragraph (d)—
 - (aa) in paragraph (i), after “Regulations” insert “(as they have effect in the United Kingdom)”;
 - (bb) in paragraph (ii), after “23 or 24 (exports or imports)” insert “(as they have effect in the United Kingdom)”;
 - (iii) in sub-paragraph (e), after “any British overseas territory” insert “other than the Territory”;
 - (iv) in sub-paragraph (g), for “United Kingdom” substitute “Territory”;

- (c) in paragraph (3)(j), for “Secretary of State, the Treasury or the Commissioners (as the case may be)” substitute “Governor”.

42. In regulation 65 (Part 9: supplementary)—

- (a) for paragraph (2) substitute—

“(2) But nothing in that regulation authorises a disclosure that would contravene the data protection legislation if that legislation were applicable to the Territory.”
- (b) after paragraph (5) insert—

“(5A) An authorised officer must, if requested to do so, produce evidence of their authority before exercising any power conferred by this Part.”;
- (c) in paragraph (6), in the definition of “privileged information”, omit “(in Scotland, to confidentiality of communications)”.

43. In Part 10 (Enforcement), at the beginning insert—

“Suspected ships, aircraft or vehicles

65A.—(1) Where an authorised officer has reasonable cause to suspect that a ship, aircraft or vehicle has been, or is being, or is about to be used in the commission of an offence under Part 5 (Trade), regulation 35 (transporting etc. Libyan oil in relation to UN designated ships), regulation 37 (brokering or ship supply services) or regulation 53(2) (trade: licensing offences), the authorised officer may—

- (a) in relation to an aircraft or vehicle, require the relevant person to keep the aircraft or vehicle and any goods it is carrying in the Territory, until the authorised officer notifies the relevant person that the aircraft or vehicle (as the case may be) may depart, or
- (b) in relation to a ship, require the relevant person—
 - (i) not to cause or permit the ship to proceed with the voyage on which it is engaged or about to engage, until the authorised officer notifies the relevant person that the ship may proceed;
 - (ii) not to land any part of the ship’s cargo at any port specified by the authorised officer, except with the authorised officer’s prior consent;
 - (iii) if the ship is in port in the Territory, to cause the ship to remain there until the authorised officer notifies the relevant person that the ship may depart;
 - (iv) if the ship is in any other place, to cause it to proceed to a port specified by the authorised officer and keep it there, until the authorised officer notifies the relevant person that the ship may depart.

(2) Where the authorised officer considers it necessary in order to secure compliance with a requirement made under paragraph (1), the authorised officer may detain the ship, aircraft or vehicle and any goods it is carrying.

(3) Where an authorised officer detains a ship, aircraft or vehicle and any goods it is carrying in accordance with paragraph (2), the authorised officer must deliver to the master of the ship, the aircraft operator or the owner of the vehicle (as the case may be) a detention direction.

(4) A detention direction under paragraph (3) must—

- (a) be in writing,
- (b) state the grounds on which the ship, aircraft or vehicle is detained, and
- (c) state that—
 - (i) the power to detain is exercised under this regulation, and
 - (ii) any requirements subject to which the detention is carried out must be complied with.

(5) Paragraph (6) applies, in relation to a ship or aircraft, if—

- (a) the ship or aircraft (as the case may be) is not a Territory ship or Territory aircraft, and
- (b) there is in the Territory a consular officer for the country to which the ship or aircraft belongs.

(6) A copy of the detention direction must be sent as soon as practicable to the nearest consular officer for the country to which the ship or aircraft belongs.

(7) An authorised officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

(8) An authorised officer must, if requested to do so, produce evidence of their authority before exercising any power conferred by this regulation.

(9) Nothing in this regulation affects any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

(10) In this regulation—

“consular officer”, in relation to a foreign country, means the officer recognised by Her Majesty as a consular officer of that foreign country in the Territory;

“the relevant person” means any of the following—

- (a) in relation to a ship, the owner, master or charterer of the ship;
- (b) in relation to an aircraft, the owner, charterer, operator or commander of the aircraft;
- (c) in relation to a vehicle, the owner, driver or operator of the vehicle.

Search warrants

65B.—(1) A magistrate or justice of the peace may issue a search warrant if satisfied by information on oath that—

- (a) there is reasonable cause to suspect that a relevant offence under these Regulations has been, or is being, or is about to be, committed, and
- (b) evidence in relation to the offence is to be found on a ship, aircraft, vehicle or premises specified in the information.

(2) A search warrant issued under this regulation is a warrant empowering an authorised officer to enter and search the ship, aircraft, vehicle or premises specified in the information, at any time within one month from the date of the warrant.

(3) The powers conferred on an authorised officer by a search warrant under this regulation include powers to—

- (a) in the case of a power to enter a ship, aircraft or vehicle, stop that ship, aircraft or vehicle;
- (b) enter any land, where such entry appears to the authorised officer to be necessary in order to enter the ship, aircraft, vehicle or premises specified in the information;
- (c) take such other persons and such equipment on to the ship, aircraft, vehicle or premises as appear to the authorised officer to be necessary;
- (d) inspect and seize any thing found in the course of a search if the authorised officer has reasonable cause to suspect that—
 - (i) it is evidence in relation to a relevant offence under these Regulations, or
 - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed;
- (e) take copies of any document.

(4) An authorised officer who enters a ship, aircraft, vehicle or premises under a search warrant issued under this regulation may—

- (a) search any person found on the ship, aircraft, vehicle or premises whom the officer has reasonable cause to suspect to be in possession of any thing which may be required as evidence for the purposes of proceedings in respect of a relevant offence under these Regulations, and
- (b) seize any such thing found in such a search.

(5) Any thing seized under paragraph (3)(d) or (4)(b)—

- (a) may be retained for so long as is necessary in all the circumstances, and
- (b) where that thing is prohibited goods and is not authorised by a trade licence, may be forfeited, disposed of or transferred as appropriate.

(6) A search of a person under paragraph (4)(a) must be carried out by a person of the same sex.

(7) An authorised officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

(8) An authorised officer must, if requested to do so, produce evidence of their authority before exercising any power conferred by this regulation.

(9) Nothing in this regulation affects any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

(10) For the purposes of this regulation—

“information on oath” includes any other form of application for a search warrant applicable in the Territory;

“justice of the peace” includes other competent judicial authorities within the Territory responsible for issuing search warrants;

“prohibited goods” means goods which have been or are being dealt with in contravention of any prohibition in Chapter 1 of Part 5 (Trade);

“relevant offence” means an offence which is punishable with a term of imprisonment of more than 6 months.”

44. For regulation 66 (penalties for offences) substitute—

“**66.**—(1) Paragraphs (3) to (7) apply to—

- (a) Anguilla;
- (b) British Antarctic Territory;
- (c) British Indian Ocean Territory;
- (d) Cayman Islands;
- (e) Montserrat;
- (f) Pitcairn, Henderson, Ducie and Oeno Islands;
- (g) Turks and Caicos Islands;
- (h) Virgin Islands.

(2) Paragraphs (8) to (12) apply to—

- (a) Falkland Islands;
- (b) St Helena, Ascension and Tristan da Cunha;
- (c) South Georgia and the South Sandwich Islands;
- (d) the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus.

(3) A person who commits an offence under any provision of Part 3 (Finance), regulation 36 (port access or entry for UN designated ships), regulation 38(3) (financial transactions in relation to Libyan oil aboard UN designated ships), regulation 39(4) (circumvention of

regulation 38), regulation 42 (movement of aircraft), or regulation 52 (finance: licensing offences) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years, or a fine, or both.

(4) A person who commits an offence under any provision of Part 5 (Trade), regulation 35 (transporting etc. Libyan oil in relation to UN designated ships), regulation 37 (brokering or ship supply services) or regulation 39(2) (circumvention of regulations 35 and 37) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or a fine, or both.

(5) A person who commits an offence under regulation 9(6) (confidentiality), 53 (trade: licensing offences), 54 (port access or entry for UN designated ships: licensing offences), or regulation 62(6) or 63(5) (information offences in connection with general trade licences) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.

(6) A person who commits an offence under regulation 56(6) (finance: reporting obligations) or regulation 60 (information offences in connection with Part 3) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both.

(7) A person who commits an offence under regulation 61A (trade: information offences) is liable, on summary conviction, to a fine not exceeding £1,000 or its equivalent in the currency of the Territory.

(8) A person who commits an offence under any provision of Part 3, regulation 36, regulation 38(3), regulation 39(4), regulation 42, or regulation 52 is liable on conviction to imprisonment for a term not exceeding 7 years, or a fine, or both.

(9) A person who commits an offence under any provision of Part 5, regulation 35, regulation 37 or regulation 39(2) is liable on conviction to imprisonment for a term not exceeding 10 years, or a fine, or both.

(10) A person who commits an offence under regulation 9(6), regulation 53, regulation 54, or regulation 62(6) or 63(5) is liable on conviction to imprisonment for a term not exceeding 2 years, or a fine, or both.

(11) A person who commits an offence under regulation 56(6) or regulation 60 is liable on conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both.

(12) A person who commits an offence under regulation 61A is liable on conviction to a fine not exceeding £1,000 or its equivalent in the currency of the Territory.

(13) Where a fine in this regulation is expressed to be a sum in sterling or its equivalent in the currency of the Territory, the Governor may issue guidance specifying how to calculate the amount in the currency of the Territory which is to be considered equivalent to that sum in sterling.”

45. In regulation 67 (liability of officers of bodies corporate etc.), omit paragraph (4).

- 46.** In regulation 68 (jurisdiction to try offences)—
- (a) in paragraphs (1) and (2), for “United Kingdom”, in each place it occurs, substitute “Territory”;
 - (b) omit paragraphs (3) and (4).

47. After regulation 68 (jurisdiction to try offences), insert—

“Consent to prosecutions

68A.—(1) Proceedings for an offence under these Regulations must not be instituted in the Territory except with the consent of the principal public officer of the Territory responsible for criminal prosecutions.

(2) Nothing in paragraph (1) prevents—

- (a) the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of an offence under these Regulations, or
- (b) the remand in custody or on bail of any person charged with such an offence.”

48. For regulation 69 (procedure for offences by unincorporated bodies) substitute—

“**69.** Any provision in an enactment which applies in the Territory in relation to criminal proceedings brought against a body corporate, applies also for the purposes of proceedings in the Territory for an offence under these Regulations brought against an unincorporated body.”

49. In regulation 70 (time limit for proceedings for summary offences), omit paragraph (4).

50. Omit regulation 71 (trade enforcement: application of CEMA) (including the heading).

51. Omit regulation 72 (trade offences in CEMA: modification of penalty) (including the heading).

52. Omit regulation 73 (application of Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005(a)) (including the heading).

53. Omit regulation 74 (monetary penalties) (including the heading).

54. In regulation 75 (exercise of maritime enforcement powers)—

(a) for paragraph (1) substitute—

“(1) A maritime enforcement officer may, for a purpose mentioned in paragraph (2) or (3), exercise any of the maritime enforcement powers in relation to a relevant ship in international waters.”;

(b) omit paragraph (5);

(c) at the end, insert—

“(6) In this Part, “a relevant ship” means, in relation to the Territory, a Territory ship.”

55. In regulation 76 (maritime enforcement officers)—

(a) in paragraph (1)—

(i) omit sub-paragraphs (b), (d), (e), (f) and (h);

(ii) for sub-paragraph (c) substitute—

(a) 2005 c. 15. Chapter 1 of Part 2 has been amended by the Terrorism Act 2006 (c. 11), section 33(2) to (4); the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), sections 26(2) and 30(2) and Schedules 3 and 5; the Bribery Act 2010 (c. 23), section 17(2) and Schedule 1; the Criminal Justice and Licensing (Scotland) Act 2010 (asp.13), section 203 and Schedule 7, paragraph 77; the Crime and Courts Act 2013 (c. 22), section 15 and Schedule 8, paragraphs 157 and 159; the Criminal Finances Act 2017 (c. 22), section 51(1); the Sanctions and Anti-Money Laundering Act 2018, section 59(4) and Schedule 3, paragraph 4; S.I. 2006/1629; and S.I. 2014/834.

- “(c) a police officer of the Territory;”;
- (iii) for sub-paragraph (g) substitute—
- “(g) a customs officer of the Territory.”;
- (b) omit paragraph (2).
- 56.** In regulation 77(2)(c) (power to stop, board, search etc.), for “United Kingdom” substitute “Territory”.
- 57.** Omit regulation 79 (restrictions on exercise of maritime enforcement powers) (including the heading).
- 58.** In regulation 81 (notices), for “United Kingdom”, in each place it occurs, substitute “Territory”.
- 59.** Omit regulation 82 (article 20 of the Export Control Order 2008) (including the heading).
- 60.** Omit regulation 83 (trade: overlapping offences) (including the heading).
- 61.** Omit regulation 84 (amendment of the United Nations and European Union Financial Sanctions (Linking) Regulations 2017) (including the heading).
- 62.** Omit regulation 85 (revocations) (including the heading).
- 63.** In regulation 86 (transitional provision: Treasury licences)—
- (a) in the heading, for “Treasury licences” substitute “financial sanctions licences”;
- (b) in paragraphs (1) to (6) for “IP completion day”, in each place it occurs, substitute “the relevant date”;
- (c) for paragraph (1)(a) substitute—
- “(a) was granted by the Governor under article 15 of the 2011 Overseas Territories Order.”;
- (d) in paragraph (2), for “Treasury under regulation 48(1) (Treasury licences)” substitute “Governor under regulation 48 (financial sanctions licences)”;
- (e) in paragraph (3)(a), for “2011 Order,” substitute “2011 Overseas Territories Order, or”;
- (f) omit paragraph (3)(b);
- (g) in paragraph (4), after sub-paragraph (a), insert—
- “(aa) the 2011 Overseas Territories Order.”;
- (h) in paragraph (5)(a), for “2011 Order or 2016 Regulations” substitute “2011 Overseas Territories Order”;
- (i) in paragraph (7)—
- (i) at the appropriate place, insert—
- ““the 2011 Overseas Territories Order” means the Libya (Restrictive Measures) (Overseas Territories) Order 2011(a).”;
- (ii) at the end insert—
- ““the relevant date” means the date on which Part 3 comes into force.”
- 64.** For regulation 87 (transitional provision: trade licences) substitute—
- “**87.**—(1) Paragraphs (2) and (3) apply to a licence which—
- (a) was granted by the Governor under article 19 of the 2011 Overseas Territories Order,
- (b) was in effect immediately before the relevant date, and

(a) S.I. 2011/1080 as amended by S.I.2011/2717; S.I. 2012/356; S.I. 2013/3160; S.I. 2018/1076; S.I. 2019/185.

- (c) authorises an act which would (on and after the relevant date, and in the absence of paragraphs (2) to (4)) be prohibited by Part 5 (Trade),

and such a licence is referred to in this regulation as an “existing trade sanctions licence”.

(2) An existing trade sanctions licence has effect on and after the relevant date as if it were a licence which had been issued by the Governor under regulation 49 (trade licences).

(3) Any reference in an existing trade sanctions licence to a prohibition in the 2011 Overseas Territories Order is to be treated on and after the relevant date as a reference to the corresponding prohibition in Part 5.

(4) In this regulation—

“the 2011 Overseas Territories Order” has the meaning it has in regulation 86 (transitional provision: financial sanctions licences);

“the relevant date” means the date on which Part 5 comes into force.”

65. For regulation 88 (transitional provision: pending applications for trade licences) substitute—

“**88.**—(1) Paragraph (2) applies where—

- (a) an application was made before the relevant date for a licence under the 2011 Overseas Territories Order,
- (b) the application is for authorisation of an act prohibited by Part 5 (Trade), and
- (c) a decision to grant or refuse the application has not been made before the relevant date.

(2) The application is to be treated on and after the relevant date as an application for a licence under regulation 49 (trade licences).

(3) In this regulation—

“the 2011 Overseas Territories Order” has the meaning it has in regulation 86 (transitional provision: financial sanctions licences);

“the relevant date” means the date on which Part 5 comes into force.”

66. In regulation 89 (transitional provisions: prior obligations etc.)—

- (a) in paragraphs (1) and (2), for “IP completion day” substitute “the relevant date” at each place it occurs;
- (b) in paragraph (3)(c), for “(Treasury licences: purposes)” substitute “(financial sanctions licences: purposes)”;
- (c) in paragraph (4), at the appropriate place insert—

““the relevant date” means the date on which Part 3 comes into force.”

67. In Schedule 4 (Treasury licences: purposes)—

- (a) in the heading, for “Treasury licences” substitute “Financial sanctions licences”;
- (b) in paragraph 5(b)(ii) (pre-existing judicial decisions etc.), for “United Kingdom” substitute “Territory”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends with modifications the Libya (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/1665) (“the Libya Regulations”) as amended from time to time to all British overseas territories except Bermuda and Gibraltar (which implement sanctions under their own legislative arrangements). It also implements in those territories the travel ban in respect of UN designated persons required by paragraph 15 of resolution 1970 (2011) adopted by the Security Council on 26 February 2011 (“resolution 1970”) (which in the United Kingdom is implemented by way of the Immigration Act 1971 (c.77) rather than the Libya Regulations).

Section 63(3)(c) of the Sanctions and Anti-Money Laundering Act 2018 (c.13) (“the Sanctions Act”) provides that Her Majesty may by Order in Council provide for any provision of Part 1 of that Act, or any regulations under Part 1 of that Act, to extend with or without modifications to any of the British overseas territories. Section 63(4) provides that this includes the power to extend any regulations as amended from time to time.

Section 1 of the United Nations Act 1946 (c.45) provides that Her Majesty may by Order in Council make such provision as appears to Her necessary or expedient for enabling the effective application of certain measures where, under Article 41 of the Charter of the United Nations, the Security Council has called upon Her Majesty’s Government in the United Kingdom to apply such measures to give effect to any decision of that Council. In accordance with subsection (2) of that section, such Orders in Council may extend to the British overseas territories.

The Libya Regulations were made under Part 1 of the Sanctions Act to establish a sanctions regime in relation to Libya for the purposes of complying with obligations the United Kingdom has by virtue of UN Security Council resolutions relating to Libya, and for the purposes of promoting respect for human rights in Libya, promoting the peace, stability and security of Libya, promoting the successful completion of Libya’s political transition, and preventing migrant smuggling and human trafficking from Libya.

The Libya Regulations, as modified and extended to the British overseas territories listed in Schedule 1 by this Order (“the modified Regulations”), provide that a person named by the UN or designated by the Secretary of State for being, or having been, involved in certain activities, is a designated person for the purposes of the modified Regulations. Designated persons may be excluded from the territory and may be made subject to financial sanctions, including having their funds or economic resources frozen. There are also specific financial sanctions giving effect to a partial asset-freeze imposed by the United Nations in respect of two entities named in Annex II of resolution 1973 adopted by the UN Security Council on 17 March 2011.

The modified Regulations also impose trade restrictions in relation to military goods, items which could be used to repress the civilian population of Libya (as specified in Schedule 2 to the modified Regulations) and on certain goods which could be used for human trafficking or the smuggling of migrants. The modified Regulations also impose restrictions in relation to certain aircraft and ships, and conduct that may contribute to the armed hostilities taking place in Libya.

The modified Regulations provide for certain exceptions to this sanctions regime (for example to allow for frozen accounts to be credited with interest or other earnings and to allow acts done for the purpose of national security or the prevention of serious crime). The Governor of a British overseas territory to which the modified Regulations extend may, with the consent of the Secretary of State, issue a licence in respect of activities that would otherwise be prohibited under the modified Regulations. Schedule 4 sets out the purposes under which the Governor may issue a financial sanctions licence. The modified Regulations also require the Governor of the territory to publish an up-to-date list of designated persons.

The modified Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime. The modified Regulations also prescribe enforcement powers in relation to suspected ships, aircraft or vehicles, or for the issue of a search warrant. The modified Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in the modified Regulations and prescribe the penalties that apply to such offences.

This Order also extends to the territories for the purposes of the modified Regulations specific provisions of Part 1 of the Sanctions Act, namely provisions relating to protection for acts done for purposes of compliance, Crown application and saving for prerogative powers.

This Order also provides that, subject to certain exceptions, UN designated persons must not enter transit or remain in the territories.

This Order revokes the Libya (Restrictive Measures) (Overseas Territories) Order 2011 (S.I. 2011/1080); the Libya (Restrictive Measures) (Overseas Territories) (Amendment) Order 2011

(S.I. 2011/2717); the Libya (Restrictive Measures) (Overseas Territories) (Amendment) Order 2012 (S.I. 2012/356); and the Libya (Restrictive Measures) (Overseas Territories) (Amendment) Order 2013 (S.I. 2013/3160).

An Impact Assessment has not been prepared for this instrument because the territorial extent of the instrument and the modified Regulations is the British overseas territories listed in Schedule 1: no, or no significant, impact is foreseen on the private, voluntary or public sectors in the United Kingdom.

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