

Statutory Document No. 2015/0028



*Customs and Excise Act 1993*

## **EXPORT CONTROL (SUDAN, SOUTH SUDAN AND CENTRAL AFRICAN REPUBLIC SANCTIONS) REGULATIONS 2014 (APPLICATION) ORDER 2015**

*Approved by Tynwald:* 18 February 2015  
*Coming into Operation:* 1 March 2015

The Treasury makes the following Order under sections 1 and 3 of the Customs and Excise Act 1993.

### **1 Title**

This Order is the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 (Application) Order 2015.

### **2 Commencement**

This Order comes into operation on 1 March 2015.

### **3 Interpretation**

In this Order, “the applied legislation” means the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014<sup>1</sup>.

### **4 Application**

- (1) The applied legislation shall have effect in the Island, as part of the law of the Island, subject to the exceptions, modifications and adaptations in the Schedule to this Order.
- (2) The text of the applied legislation is annexed to this Order.

### **5 Revocation**

The Export Control (Sudan and South Sudan Sanctions) and (Miscellaneous Amendments) Regulations 2011 (Application) Order 2011<sup>2</sup> is revoked.

<sup>1</sup> SI 2014 No. 3258.

<sup>2</sup> SD 1106/11, which applied in Island law SI 2011 No. 2925 (of Parliament).

**MADE 21<sup>st</sup> January 2015**

**W E TEARE**

*Minister for the Treasury*



SCHEDULE

[Article 4(1)]

EXCEPTIONS, MODIFICATIONS AND ADAPTATIONS SUBJECT TO WHICH THE EXPORT CONTROL (SUDAN, SOUTH SUDAN AND CENTRAL AFRICAN REPUBLIC SANCTIONS) REGULATIONS 2014 [S.I. 2014 NO. 3258] SHALL HAVE EFFECT IN THE ISLAND

<u>Regulation</u>	<u>Subject matter</u>	<u>Exception, modification or adaptation</u>
1	Citation, commencement and application.	(1) In paragraph (1), omit the words from “and come” onwards.  (2) In paragraph (2) -  (a) in sub-paragraph (a), for “United Kingdom” substitute “Island”; and  (b) in sub-paragraph (b) -  (i) for “a United Kingdom person” substitute “an Island person”; and  (ii) for “section 11” to the end substitute “article 2(1) of the Export Control Order 2008 (of Parliament) <sup>3</sup> , as it has effect in the Island.”
2	Revocations and savings.	Omit.

<sup>3</sup> SI 2008 No. 3231, applied in the Island by SD 104/09, which inserted the definition of “Island person”.

**SCHEDULE**

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- 3 Interpretation.
- (1) For “1979”, on both occasion it occurs, substitute **“1986”**.
- (2) After paragraph (2) add -
- “(3)** A reference to any of the instruments referred to in paragraph (1) is a reference to that instrument as it has effect in the Island. **”**.
- 9 Penalties.
- (1) In paragraph (a) -
- (a) for “imprisonment” substitute **“custody”**; and
- (b) for “the statutory maximum” substitute **“£5,000”**.
- (2) In paragraph (b), for “indictment, to imprisonment” substitute **“information, to custody”**.
- 10 Application of the 1979 Act.
- (1) In the title, for “1979” substitute **“1986”**.
- (2) In paragraph (1), for “the Commissioners for Her Majesty’s Revenue and Customs investigate or propose” substitute **“the Treasury investigates or proposes”**.
- (3) In paragraph (2), for “138 of the 1979 Act” substitute **“145 of the 1986 Act”**.
- (4) In paragraph (3), for “Sections 145” to “1979 Act” substitute **“Sections 152 to 155, 157 to 159, 161 and 162”**.

of the 1986 Act<sup>22</sup>.

- (5) In paragraph (4), for “section 1 of the 1979 Act” substitute <sup>23</sup>section 184 of the 1986 Act<sup>22</sup>.

11 Review.

For “Secretary of State”, on both occasions, substitute <sup>24</sup>Treasury<sup>22</sup>.

*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order applies in Island law the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014<sup>4</sup> (“the applied Regulations”). It also revokes a 2011 Order which applied the Export Control (Sudan and South Sudan Sanctions and (Miscellaneous Amendments) Regulations 2011 (Application) Order 2011<sup>5</sup>, as the Regulations applied by that Order are now either spent or redundant.

The applied Regulations make provision for the enforcement of certain trade restrictions against —

- Sudan, as specified in Council Regulation (EU) No. 747/2014<sup>6</sup> (“the Sudan Regulation”), which repeals Regulations (EC) No. 131/2004<sup>7</sup> and (EC) No. 1184/2005<sup>8</sup>;
- South Sudan, as specified in Council Regulation (EU) No. 748/2014<sup>9</sup> (“the South Sudan Regulation”); and
- the Central African Republic, as specified in Council Regulation (EU) No. 224/2014<sup>10</sup> (“the Central African Republic Regulation”).

The applied Regulations set out offences in relation to the restrictions, and those offences can be committed by any person in the Island and anywhere else in the world by an “Island person” (as defined in article 2(1) of the Export Control Order 2008 (of Parliament), as it has effect in the Island)<sup>11</sup>.

The measures against both Sudan and South Sudan include prohibitions on —

- the provision of technical or financial assistance or brokering services related to military activities; and
- the provision, manufacture and supply of arms and related materiel, directly or indirectly to any natural or legal person, entity or body in Sudan or South Sudan.

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<sup>4</sup> SI 2014 No. 3258.

<sup>5</sup> SD 1106/11, which applied SI 2011 No. 2925 in Island law.

<sup>6</sup> OJ L203, 11.07.2014, p.1.

<sup>7</sup> OJ L21, 27.1.2004, p.1.

<sup>8</sup> OJ L193, 23.7.2005, p.9.

<sup>9</sup> OJ L203, 11.07.2014, p.13.

<sup>10</sup> OJ L70, 11.3.2014, p.1.

<sup>11</sup> SI 2008 No. 3231, applied in the Island by SD 104/09, which also inserted the definition of “Island person”.



The measures against the Central African Republic include prohibitions on the provision of technical assistance or brokering or finance or financial assistance related to —

- goods and technology listed in the Common Military List of the European Union; or
- the provision of armed mercenary personnel in the Central African Republic or for use in the Central African Republic.

In the applied Regulations —

- regulations 4 to 6 create offences for contravention of the trade restrictions in Article 2 of the Sudan Regulation, Article 2 of the South Sudan Regulation and Article 2 of the Central African Republic Regulation;
- regulation 7 creates offences for the circumvention of the restrictions in those Articles;
- regulation 8 supplements the provisions of the Sudan Regulation and the South Sudan Regulation that allow a competent authority to authorise (licence) activities that are otherwise prohibited, with regulation 8(1) making it an offence knowingly and recklessly to provide false information for the purpose of obtaining an authorisation, and regulation 8(3) making it an offence to fail to comply with authorisation requirements or conditions;
- regulation 9 sets out the penalties relating to offences;
- regulation 10 provides for the ancillary provisions which apply to the enforcement of customs and excise legislation to also apply to the enforcement of the applied Regulations; and
- regulation 11 requires the Treasury to review the operation and effect of the applied Regulations and publish a report within five years after they come into operation and within every five years thereafter. Following a review it will fall to the Treasury to consider whether the applied Regulations should remain as they are, or be revoked or amended.





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STATUTORY INSTRUMENTS

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**2014 No. 3258**

**CUSTOMS**

**The Export Control (Sudan, South Sudan and Central  
African  
Republic Sanctions) Regulations 2014**

*Made - - - -* *9<sup>th</sup> December 2014*

*Laid before Parliament* *10<sup>th</sup> December 2014*

*Coming into force - -* *31<sup>st</sup> December 2014*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972<sup>12</sup> in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States<sup>13</sup>.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, makes the following Regulations.

**PART 1**

**Introductory**

**Citation, commencement and application**

1. (1) These Regulations may be cited as the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014.

(2) An offence may be committed under these Regulations—

(a) in the *Island* by any person;

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<sup>12</sup> 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

<sup>13</sup> S.I. 1994/757, to which there are amendments not relevant to these Regulations.

- (b) elsewhere by any person who is *an Island person* within the meaning of article 2(1) of the *Export Control Order 2008 (of Parliament)*<sup>14</sup>, as it has effect in the Island.

## Revocations and savings

2. ... *Omitted.*

## Interpretation

3. (1) In these Regulations—

“the 1986 Act” means the Customs and Excise Management Act 1986<sup>15</sup>;

“EU authorisation” means an authorisation granted under Article 3 of the Sudan Regulation or Article 3 of the South Sudan Regulation;

“the Central African Republic Regulation” means Council Regulation (EU) No 224 /2014<sup>16</sup> concerning restrictive measures in view of the situation in the Central African Republic;

“the South Sudan Regulation” means Council Regulation (EU) No 748/2014<sup>17</sup> concerning restrictive measures in respect of the situation in South Sudan;

“the Sudan Regulation” means Council Regulation (EU) No 747/2014<sup>18</sup> concerning restrictive measures in view of the situation in Sudan and repealing Regulations (EC) No 131/2004<sup>19</sup> and (EC) No 1184/2005<sup>20</sup>.

- (2) An expression used both in these Regulations and the Sudan Regulation, the South Sudan Regulation or the Central African Republic Regulation has the meaning that it bears in those Regulations.

- (3) *A reference to any of the instruments referred to in paragraph (1) is a reference to that instrument as it has effect in the Island.*

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<sup>14</sup> SI 2008 No. 3231, applied in the Island by SD 104/09, which inserted the definition of “Island person”.

<sup>15</sup> 1986 c.34 (of Tynwald).

<sup>16</sup> OJ L70, 11.3.2014, p1.

<sup>17</sup> OJ L203, 11.7.2014, p13.

<sup>18</sup> OJ L203, 11.7.2014, p1.

<sup>19</sup> OJ L21,28.1.2004, p1.

<sup>20</sup> OJ L193, 23.7.2005, p9.

## PART 2

### Offences in relation to prohibitions in the Sudan and the South Sudan Regulations

#### **Offences supplementing the Sudan Regulation**

4. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following sub-paragraphs of Article 2 of the Sudan Regulation with intent to evade a prohibition in those sub-paragraphs commits an offence and may be arrested—

- (a) Article 2(a) (prohibition on provision of technical assistance or brokering services related to military activities, directly or indirectly to any natural or legal person, entity or body in, or for use in Sudan);
- (b) Article 2(b) (prohibition on provision of financing or financial assistance related to military activities, directly or indirectly to any natural or legal person, entity or body in, or for use in Sudan).

#### **Offences supplementing the South Sudan Regulation**

5. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following sub-paragraphs of Article 2 of the Sudan Regulation with intent to evade a prohibition in those sub-paragraphs commits an offence and may be arrested—

- (a) Article 2(a) (prohibition on provision of technical assistance related to military activities to any person, entity or body in, or for use in South Sudan);
- (b) Article 2(b) (prohibition on provision of financing or financial assistance related to military activities to any person, entity or body in, or for use in South Sudan).

## PART 3

### Offences in relation to prohibitions in the Central African Republic Regulation

#### **Offences supplementing the Central African Republic Regulation**

6. A person who is knowingly concerned in an activity prohibited by any of the following sub-paragraphs of Article 2 of the Central African Republic Regulation with intent to evade a prohibition in those sub-paragraphs commits an offence and may be arrested—

- (a) Article 2(a) (prohibition on provision of technical assistance and brokering services related to the goods or technology listed in the Common Military List of the European Union or related to the provision, manufacture, maintenance and use of goods included in that list, to any person, entity or body in the Central African Republic or for use in the Central African Republic);
- (b) Article 2(b) (prohibition on provision of financing or financial assistance related to the sale, supply, transfer or export of goods and technology listed in the Common Military List, to any person, entity or body in the Central African Republic or for use in the Central African Republic);
- (c) Article 2(c) (prohibition on provision of technical assistance, financing or financial assistance, brokering services or transport services related to the provision of armed mercenary personnel in the Central African Republic or for use in the Central African Republic).

## PART 4

### Supplementary Provisions as to Offences

#### **Circumvention of prohibitions**

7. A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—
- (a) to circumvent any of the prohibitions in Articles 2 of the Sudan Regulation, Article 2 of the South Sudan Regulation or Article 2 of the Central African Republic Regulation, or
  - (b) to enable or facilitate the contravention of any such prohibition.

#### **Offences related to EU authorisations**

8. (1) A person commits an offence (and may be arrested) who, for the purpose of obtaining an EU authorisation—
- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
  - (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.
- (2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless—

- (a) the EU authorisation was modified after the completion of the act authorised; and
- (b) the failure to comply would not have been a failure had the EU authorisation not been so modified.

## PART 5

### Enforcement and Penalties

#### Penalties

9. A person guilty of an offence under regulations 4 to 8 of these Regulations is liable—

- (a) on summary conviction, to *custody* for a term not exceeding three months or to a fine not exceeding £5,000, or to both;
- (b) on conviction on *information*, to *custody* for a term not exceeding two years or to a fine, or to both.

#### Application of the 1986 Act

10. (1) Where *the Treasury investigates or proposes* to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under these Regulations has been committed; or
- (b) whether a person should be prosecuted for such an offence, the matter shall be treated as an assigned matter.

(2) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under these Regulations as it applies to the arrest of a person for an offence under the customs and excise Acts.

(3) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under these Regulations as they apply in relation to offences and penalties under the customs and excise Acts.

(4) “The customs and excise Acts” and “assigned matter” have the same meanings as in section 184 of the 1986 Act.

## PART 6

### General

#### Review

11. (1) The *Treasury* must from time to time—
- (a) carry out a review of these Regulations,
  - (b) set out the conclusions of the review in a report, and
  - (c) publish the report.
- (2) In carrying out the review the *Treasury* must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Sudan Regulation, the South Sudan Regulation and the Central African Republic Regulation and the measures taken to implement them in other member States.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Sudan Regulation, the South Sudan Regulation and the Central African Republic Regulation established by these Regulations and the measures taken to implement them,
  - (b) assess the extent to which those objectives are achieved, and
  - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under these Regulations must be published before the end of the period of five years beginning with the day on which these Regulations come into force.
- (5) Reports under these Regulations are afterwards to be published at intervals not exceeding five years.

*Matthew Hancock*

Minister of State for Business and Enterprise and Energy  
Department for Business, Innovation and Skills

9<sup>th</sup> December 2014

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the enforcement of certain trade restrictions against Sudan specified in Council Regulation (EU) No 747/2014 (OJ L 203, 11.7.2014, p1) (the “Sudan Regulation”) which repeals Regulations (EC) No 131/2004 (OJ L 21, 28.1.2004, p1) and (EC) No 1184/2005 (OJ L 193, 23.7.2005, p9). It also provides for the enforcement of trade restrictions against South Sudan specified in Council Regulation (EU) No 748/2014 (OJ L 203, 11.7.2014, p13) (the “South Sudan Regulation”) and against the Central African Republic, as specified in Council Regulation (EU) No 224/2014 (OJ L 70, 11.3.2014, p1) (the “Central African Republic Regulation”).

The Regulations set out offences in relation to these restrictions and those offences can be committed by any person in the United Kingdom and, around the world, by any United Kingdom person, as defined in section 11 of the Export Control Act 2002(c. 28).

The measures against both Sudan and South Sudan include prohibitions on the provision of technical or financial assistance or brokering services related to military activities and to the provision, manufacture and use of arms and related materiel, directly or indirectly to any natural or legal person, entity or body in Sudan or South Sudan. The measures against the Central African Republic include prohibitions on the provision of technical assistance or brokering or financing or financial assistance related to the goods and technology listed in the Common Military List of the European Union or related to the provision of armed mercenary personnel in the Central African Republic or for use in the Central African Republic.

Regulation 2 revokes the Export Control (Sudan and South Sudan Sanctions) and (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2925), which are replaced by these Regulations, except regulation 8 which amends the Export Control Order 2008 (S.I. 2008/3231) to make South Sudan an ‘embargoed destination’.

Regulations 4 to 6 create offences for contravention of the trade restrictions in Article 2 of the Sudan Regulation, Article 2 of the South Sudan Regulation and Article 2 of the Central African Republic Regulation and regulation 7 creates offences for circumvention of the restrictions in those Articles.

Regulation 8 supplements the provisions of the Sudan Regulation and the South Sudan Regulation that allow a competent authority to authorise activities that are otherwise prohibited. Regulation 8(1) makes it an offence knowingly and recklessly to provide false information for the purpose of obtaining an authorisation and regulation 8(3) makes it an offence to fail to comply with authorisation requirements or conditions.

Regulation 9 sets out the penalties relating to the offences in the Regulations and regulation 10 provides for the ancillary provisions which apply to the enforcement of customs and excise legislation to also apply to the enforcement of these Regulations.

Regulation 11 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within

every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke the Regulations or to amend them.

A regulatory impact assessment has not been produced for this instrument as it has no or minimal impact on business, charities or voluntary bodies. A copy of the Explanatory Memorandum is published alongside the Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk). Further information is available from the Export Control Organisation, BIS, 1 Victoria Street, London SW1H 0ET and on the gov.uk website ([www.gov.uk](http://www.gov.uk)).