

Statutory Document No. 2018/0023



Customs and Excise Act 1993

EXPORT CONTROL (SYRIA AND LIBYA SANCTIONS) (AMENDMENT) ORDER 2017 (APPLICATION) ORDER 2018

Approved by Tynwald: 20th February 2018

Coming into Operation: in accordance with article 2

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 (Syria and Libya Sanctions) (Amendment) Order 2017 (Application) Order 2018.

2 Commencement

This Order comes into operation on 1 February 2018¹.

3 Application of the Export Control (Syria and Libya Sanctions) (Amendment) Order 2017

(1) The Export Control (Syria and Libya Sanctions) (Amendment) Order 2017² (“the applied legislation”) applies to 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.

¹ Section 3(1) of the Customs and Excise Act 1993 provides that an Order made under section 1 of that Act shall be laid before Tynwald as soon as is practicable after it is made (and in any case not later than the second sitting of Tynwald following the making of the Order) and if at the sitting at which it is laid Tynwald fails to approve the Order it shall cease to have effect.

² SI 2017/1311.

MADE 23RD JANUARY 2018

A L CANNAN
Minister for the Treasury

SCHEDULE

[Article 3(1)]

**EXCEPTIONS, MODIFICATIONS AND ADAPTATIONS SUBJECT TO WHICH
THE EXPORT CONTROL (SYRIA AND LIBYA SANCTIONS) (AMENDMENT)
ORDER 2017 [SI 2017 NO. 1311] SHALL HAVE EFFECT IN THE ISLAND**

Article	Subject matter	Exception, modification or adaptation	
1	Citation and commencement.	Omit the words from “and comes” onwards.	
2	Amendments to the Export Control (Syria Sanctions) Order 2013 ³	In paragraph (1), after “Order 2013” insert 66 , as it has effect in the Island, 62 .	
3	Amendments to the Export Control (Libya Sanctions) Order 2016 ⁴	(1)	In paragraph (1), after “Order 2016” insert 66 , as it has effect in the Island, 62 .
		(2)	In paragraph (3), for “United Kingdom” substitute 66 Island 62 .

³ SI 2013 No. 2012, applied in the Island by SD 0295/13 and amended by SD 0443/13, SD 2014/0252, SD 2015/0079, SD 2015/0296 and SD 2017/0084.

⁴ SI 2016 No. 787, applied in the Island by SD 2016/0246.

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

This Order applies in Island law the Export Control (Syria and Libya Sanctions) (Amendment) Order 2017 (“the applied Order”), which provides for the enforcement of trade restrictions against Syria and Libya.

The applied Order amends the Export Control (Syria Sanctions) Order 2013⁵ (“the Syria Order”), as it has effect in the Island, and the Export Control (Libya Sanctions) Order 2016⁶ (“the Libya Order”), as it has effect in the Island. The amendments update the Syria Order and the Libya Order to take account of recent changes made to the EU Regulations imposing the restrictions, which have also been applied in Island law⁷.

The Syria Order is amended to update the definition of the “Syria Regulation” in that Order and updates article 8 in that Order to reflect changes made to the EU Regulation, as it has effect in the Island, in relation to Syria. It also provides that an offence in connection with the purchase, transport etc. of crude oil and petroleum products, is not committed by someone who is authorised.

The Libya Order is amended to address new trade restrictions against Libya concerning goods which could be used for the smuggling of migrants and trafficking of human beings. A new article 5A is inserted into the Libya Order, creating offences for evading the new trade restrictions concerning these goods, i.e. engaging in the various activities described in the EU Regulation in relation to Libya, unless authorised. Article 7 of the Libya Order is also amended to create new supplementary offences relating to these new trade restrictions – the offences of participating in an activity whose object or effect is to circumvent (or enable or facilitate the contravention of) the new prohibitions. Article 9 of the Libya Order is amended, the effect of which is to provide for penalties applicable to the new offences, and article 10(2) is amended to make reference to Article 2a of the EU Regulation, which has the effect that persons involved in activities contravening the new restrictions are caught by certain obligations to provide information pursuant to provisions in the Customs and Excise Management Act 1986.

⁵ Applied to the Island by SD 0295/13 (and amended as detailed in footnote 3 above).

⁶ Applied to the Island by SD 2016/0246.

⁷ EU Regulation 36/2012 of 18 January 2012, in relation to Syria, was applied in the Island by SD 0335/13, and has been amended by SD 2014/0076, SD 2014/098, SD 2014/0412, SD 2015/0217, SD 2015/0353 and SD 2017/0071. EU Regulation 2016/44 of 18 January 2016, in relation to Libya, was applied in the Island by SD 2016/0074, as amended by SD 2017/0254.



2017 No. 1311

CUSTOMS

The Export Control (Syria and Libya Sanctions) (Amendment) Order 2017

Made - - - - - 18th December 2017

Laid before Parliament 21st December 2017

Coming into force - - 1st February 2018

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972¹ 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 States².

The Secretary of State makes this Order in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by sections 1, 3, 4, 5 and 7 of the Export Control Act 2002³.

Citation and commencement

1. This Order may be cited as the Export Control (Syria and Libya Sanctions) (Amendment) Order 2017.

Amendments to the Export Control (Syria Sanctions) Order 2013

2. (1) The Export Control (Syria Sanctions) Order 2013⁴, *as it has effect in the Island*, is amended as follows.

(2) In article 3(1), in the definition of "the Syria Regulation", for "as last amended by Council Regulation (EU) No 827/2014"⁵, substitute "as last amended by Council Implementing Regulation (EU) No 2017/1751"⁶.

¹ 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).

² S.I. 1994/757, to which there are amendments not relevant to this Order.

³ 2002 c.28.

⁴ S.I. 2013/2012, relevant amending instruments are S.I. 2015/97 and S.I. 2015/1546.

⁵ OJ No L132, 29.5.2015, p.1.

(3) In article 8 (offences related to crude oil and petroleum products listed in Annex IV)—

- (a) insert, at the beginning, “Unless authorised by an EU authorisation,”;
- (b) in paragraph (c), for “set out in points (a) to (c)”, substitute “set out in point (a)”;
- (c) insert, at the end—
 - “(d) Article 6(da) (prohibition on provision of financing or financial assistance related to the prohibitions set out in points (b) and (c) of Article 6 of the Syria Regulation).”.

(4) In article 16(2)(a), for “6(b) to (d),”, substitute “6(b) to (da),”.

Amendments to the Export Control (Libya Sanctions) Order 2016

3. (1) The Export Control (Libya Sanctions) Order 2016⁷, *as it has effect in the Island*, is amended as follows.

(2) In article 4(1), in the definition of “the Libya Regulation”, after “Regulation (EU) No 204/2011”⁸, insert “as last amended by Commission Implementing Regulation (EU) No 2017/1974”⁹.

(3) After article 5 (offences related to equipment which might be used for internal repression as listed in Annex I), insert—

“Offences related to goods which could be used for smuggling of migrants etc. set out in Annex VII

5A. (1) Unless authorised by an EU authorisation, or where paragraph (2) applies, a person must not—

- (a) export items set out in Annex VII to the Libya Regulation from the *Island*—
 - (i) to any person, entity or body in Libya, or
 - (ii) if such items are for use in Libya, to any person, entity or body in any other destination;
- (b) engage in any activity, other than the export of goods, described in paragraph (a) of Article 2a(1)¹⁰ of the Libya Regulation (sale, supply etc. of goods

⁶ OJ No L246, 26.09.2017, p.1.

⁷ S.I. 2016/787.

⁸ OJ No L58, 03.03.2011, p.1.

⁹ OJ No L281, 31.10.2017, p.27.

¹⁰ Article 2a was inserted by Council Regulation (EU) 2017/1325 of 17 July 2017 (OJ No L185, 18.07.2017, p.16).

set out in Annex VII to any person, entity or body in Libya or for use in Libya);

- (c) engage in any activity described in paragraph (b) of that Article (provision of technical assistance etc. related to, or to the provision etc., of goods set out in Annex VII to any person, entity or body in Libya or for use in Libya); or
- (d) engage in any activity described in paragraph (c) of that Article (provision of financing etc. related to goods set out in Annex VII or for any related technical assistance etc., to any person, entity or body in Libya or for use in Libya).

(2) This paragraph applies in the circumstances described in Article 2a(3) of the Libya Regulation (sale, supply etc. of goods set out in Annex VII, provision of related technical assistance etc. and related financing etc. by authorities of member States to Libya's government).

(3) A person who is knowingly concerned in an activity prohibited by paragraph (1)(b) or (1)(c) with intent to evade that prohibition commits an offence and may be arrested.

(4) A person who is knowingly concerned in an activity prohibited by paragraph (1)(d) with intent to evade that prohibition commits an offence and may be arrested."

(4) In article 7–

- (a) in paragraph (1)(a), after "of the Libya Regulation", insert "and in articles 5A(1)(b) and 5A(1)(c) of this Order";
- (b) in paragraph (2)(a), after "of the Libya Regulation", insert "and in article 5A(1)(d) of this Order".

(5) In article 9–

- (a) in paragraph (1), after "5(c),", insert "5A(3),";
- (b) in paragraph (3), after "5(b),", insert "5A(4),";
- (c) in paragraph (4), after "of the Libya Regulation", insert "and in article 5A(1)(a) of this Order".

(6) In article 10(2), for "Article 2 or 3", substitute "Article 2, 2a or 3".

18th December 2017

Dr Liam Fox
Secretary of State for International Trade
Department for International Trade

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order amends the orders which provide for the enforcement of trade restrictions against Syria and Libya. The amendments update the orders, taking account of recent changes made to the EU Regulations imposing the restrictions. The Regulations are Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria (OJ No L 16, 19.1.2012, p.1) (“the Syria Regulation”), as last amended by Council Implementing Regulation (EU) No 2017/1751 (OJ No L 246, 26.9.2017, p.1); and Council Regulation (EU) No 2016/44 of 18 January 2016 concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011 (OJ No L 12, 19.1.2016, p.1) (“the Libya Regulation”), as last amended by Commission Implementing Regulation (EU) No 2017/1974 of 30 October 2017 (OJ No L 281, 31.10.2017, p.27).

Article 2 amends the Export Control (Syria Sanctions) Order 2013 (S.I. 2013/2012). It updates the definition of “the Syria Regulation” in that Order (such that the latest instrument amending that Regulation is referred to in that definition) and makes a number of changes to article 8 of that Order to reflect changes made to the Syria Regulation. It also provides that an offence, in connection with the purchase, transport etc. of crude oil and petroleum products, is not committed by someone who is authorised.

Article 3 amends the Export Control (Libya Sanctions) Order 2016 (S.I. 2016/787) (“the Libya Order”) to address the new trade restrictions against Libya concerning goods which could be used for the smuggling of migrants and trafficking of human beings.

Article 3(3) inserts new article 5A into the Libya Order. New article 5A creates offences for evading the new trade restrictions concerning these goods i.e. engaging in the various activities described in new Article 2a(1) of the Libya Regulation, read in conjunction with new Article 2a(3) of the Libya Regulation, unless authorised.

Article 3(4) amends article 7 of the Libya Order to create new supplementary offences relating to these new trade restrictions – the offences of participating in an activity whose object or effect is to circumvent (or enable or facilitate the contravention of) the new prohibitions.

Article 3(5) makes changes to article 9 of the Libya Order, the effect of which is to provide for the penalties applicable to the new offences, and article 3(6) adds a reference to new Article 2a of the Libya Regulation to article 10(2) of that Order. Article 3(6) has the effect that persons involved in activities contravening the new restrictions are caught by certain obligations to provide information pursuant to provisions in the Customs and Excise Management Act 1979.

An 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 this instrument on www.legislation.gov.uk. Further information is available from the Export Control Joint Unit, Department for International Trade, 3 Whitehall Place, London SW1A 2AW and on the gov.uk website (www.gov.uk).