

CAYMAN ISLANDS



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NOTICE

THE LIBYA (SANCTIONS) (OVERSEAS TERRITORIES) ORDER 2021

SI 2021 NO. 37

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NOTICE is hereby given that the Libya (Sanctions) (Overseas Territories) Order 2021 SI 2021 No. 37, was made on 13th January, 2021, was laid before the Parliament on 14th January, 2021 and came into force on 15th January 2021.

The full text of the Order can be viewed via the following link:

https://www.legislation.gov.uk/ukSI/2021/37/pdfs/ukSI_20210037_en.pdf?text=sanctions%20overseas

The Explanatory Note of the Libya (Sanctions) (Overseas Territories) Order 2021 SI 2021 No. 37, is as follows:

“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 25 (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.”.