

2014 No. 269

OVERSEAS TERRITORIES

The Syria (Restrictive Measures) (Overseas Territories)
(Amendment) Order 2014

(Legal Notice 8 of 2014)

Made	- - - -	11th February 2014
Laid before Parliament		18th February 2014
Coming into force	- -	11th March 2014

At the Court at Buckingham Palace, the 11th day of February 2014

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and all of the other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Syria (Restrictive Measures) (Overseas Territories) (Amendment) Order 2014 and comes into force on 11th March 2014.

(2) In this Order, “the principal Order” means the Syria (Restrictive Measures) (Overseas Territories) Order 2012(c).

(3) This Order extends to the territories listed in Schedule 1 to the principal Order.

Amendments to the principal Order

2. The principal Order is amended as follows.

3. In article 2, at the appropriate place, insert—

““Syrian cultural property” means goods of archaeological, historical, cultural, rare scientific or religious importance, including those listed in Annex XI to the Council Regulation;”.

4. At the end of article 8 insert “or article 8A”.

5. At the end of article 8A insert—

(a) 1833 c.85.

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

(c) S.I. 2012/1755, amended by S.I. 2012/3069 and 2013/1719.

“(2) Paragraph (1) does not apply if P is acting under the authority of a licence granted under this Order by the Governor with the consent of the Secretary of State.”.

6. After article 15 insert—

“Offences related to Syrian cultural property

15A.—(1) A person to whom this Order applies (“P”) commits an offence if P knowingly—

- (a) imports, exports or transfers, or
- (b) provides brokering services related to the import, export or transfer of Syrian cultural property in circumstances where there are reasonable grounds to suspect that the goods have been removed from Syria—
 - (i) without the consent of their legitimate owner, or
 - (ii) in breach of Syrian or international law.

(2) Paragraph (1) does not apply if—

- (a) the goods were exported from Syria prior to 9 May 2011, or
- (b) the goods are being safely returned to their legitimate owner in Syria.”.

7. Delete articles 19 to 24.

8. In article 33(2)—

- (a) for sub-paragraph (k) substitute—

“(k) humanitarian purposes, such as delivering or facilitating the delivery of assistance, including medical supplies, food, humanitarian workers and related assistance, and provided that, in the case of release of frozen funds or economic resources, the frozen funds or economic resources are released only to the United Nations for the purpose of delivering or facilitating the delivery of assistance in Syria in accordance with the Syria Humanitarian Assistance Response Plan”;

- (b) after sub-paragraph (l) insert—

“(m) evacuations from Syria.”.

9. In article 43—

- (a) in paragraph (1) after “15” insert “15A,”;
- (b) in paragraph (2)—
 - (i) delete “21(6)(b) or (c)”;
 - (ii) for “paragraph 3(b), (c) or (d)” substitute “paragraph 4(b), (c) or (d)”;
- (c) in paragraph (3) delete “20(2)(b)”;
- (d) in paragraph (4) for “article” to “paragraph 5” substitute “paragraph 4(a) or 6”;
- (e) delete paragraph (5).

10. In Schedule 2—

- (a) in paragraph 1 after “15” insert “15A,”;
- (b) in paragraph 2—
 - (i) delete “21(6)(b) or (c)”;
 - (ii) for “paragraph 3(b), (c) or (d)” substitute “paragraph 4(b), (c) or (d)”;
- (c) in paragraph 3 for “article” to “paragraph 5” substitute “paragraph 4(a) or 6”
- (d) delete paragraph 4.

11. In Schedule 4—

- (a) in paragraph 1 after “15” insert “15A,”;

- (b) in paragraph 2—
 - (i) delete “21(6)(b) or (c)”;
 - (ii) for “paragraph 3(b), (c) or (d)” substitute “paragraph 4(b), (c) or (d)”;
- (c) in paragraph 3 for “21(6)(a)” to “paragraph 5” substitute “paragraph 4(a) or 6”;
- (d) delete paragraph 4.

12. For Schedule 5 substitute—

“SCHEDULE 5

Article 42

Evidence and information

Power to require information, documents or goods

1.—(1) An authorised officer may request a person in or resident in the Territory, or a relevant person, to provide any information or produce any document or goods in the person’s possession or control which the officer may require for the purpose of—

- (a) securing compliance with, or detecting evasion of, this Order,
- (b) obtaining evidence of the commission of an offence under this Order,
- (c) establishing the nature and amount or quantity of any funds or economic resources owned, held or controlled by a designated person,
- (d) establishing the nature of any financial transactions entered into by a designated person, or
- (e) cooperating with any international investigation in accordance with article 41(7).

(2) When exercising the power in sub-paragraph (1), an authorised officer may—

- (a) take copies of or extracts from any document so produced,
- (b) request a person producing a document to give an explanation of it, and
- (c) where that person is a body corporate, request a person who is a present or past officer or employee of the body corporate to give such an explanation.

(3) A person to whom a request is made must comply with it within such time and in such manner as may be specified in the request.

(4) Any power under this Schedule to require information, or produce for inspection a document or goods, includes a power to specify the form in which the information or document should be given, and the period within which the information, document or goods should be provided or produced for inspection.

(5) Nothing in this paragraph is to be taken to require a person who has acted as counsel or solicitor for a person to disclose any privileged information or document in the person’s possession in that capacity.

Search warrants

2.—(1) A justice of the peace may grant a search warrant if satisfied by information on oath that—

- (a) there are reasonable grounds for suspecting that—
 - (i) an offence under this Order has been, is being, or is about to be committed, or
 - (ii) any information, document or goods requested by an authorised officer under paragraph 1 has or have not been provided or produced; and
- (b) evidence in relation to the offence, or the information, document or goods so requested, is or are to be found on a ship, aircraft, vehicle or premises specified in the information.

(2) A search warrant issued under this paragraph 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) An authorised officer who enters and searches a ship, aircraft, vehicle or premises under a warrant issued under this paragraph may—

- (a) take such other persons and such equipment on to the ship, aircraft, vehicle or premises as appear to the officer to be necessary;
- (b) take such steps as appear to the officer to be necessary, including in particular any steps mentioned in sub-paragraph (4);
- (c) inspect and seize anything found in the course of a search if the officer reasonably suspects that—
 - (i) it is evidence in relation to an offence under this Order,
 - (ii) it is information, a document or goods requested (but not provided or produced) under paragraph 1, or
 - (iii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed;
- (d) take copies of any document.

(4) The steps mentioned in sub-paragraph (3)(b) include—

- (a) entering any land,
- (b) using reasonable force, and
- (c) stopping a ship, aircraft or vehicle for the purposes of entering and searching it.

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

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

(6) Anything seized under sub-paragraph (3)(c) or (5)(b) may be—

- (a) retained for so long as is necessary in all the circumstances, and
- (b) forfeited, disposed of or transferred as appropriate.

(7) A search of a person under sub-paragraph (5) must be carried out by a person of the same sex.

Suspected ships, aircraft or vehicles

3.—(1) Where an authorised officer reasonably suspects that a ship, aircraft or vehicle has been, is being, or is about to be used in the commission of an offence under article 7, the 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 notified by an authorised officer that it may depart, or
- (b) in relation to a ship, require the relevant person to take any of the steps mentioned in sub-paragraph (2).

(2) Those steps are—

- (a) to stop the ship from proceeding with the voyage on which it is engaged or about to engage, until notified by an authorised officer that it may proceed;
- (b) to not land any part of the ship's cargo at any port specified by the officer, except with the officer's consent;

- (c) if the ship is in port in the Territory, to cause it to remain there until notified by an authorised officer that it may depart;
 - (d) if the ship is in any other place, to take it to a port specified by the officer and keep it there until notified by an authorised officer that it may depart.
- (3) The authorised officer may take such steps as appear necessary to secure compliance with a requirement under this paragraph, including in particular—
- (a) entering any land,
 - (b) using reasonable force, and
 - (c) detaining the ship, aircraft or vehicle and any goods it is carrying.

Offences

4. It is an offence for a person to—
- (a) without reasonable excuse, refuse or fail within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule,
 - (b) knowingly or recklessly give any information, or produce any document, which is false in a material particular in response to such a request,
 - (c) destroy, mutilate, deface, conceal or remove any document with intent to evade the provisions of this Schedule, or
 - (d) otherwise intentionally obstruct a person in the exercise of that person's powers under this Schedule.
5. Where a person is convicted of an offence under paragraph 4(a), the court may make an order requiring the person, within such period as may be specified in the order, to give the requested information or produce the requested document.
- 6.—(1) It is an offence for a person to disclose information or a document obtained in accordance with this Order (including a copy or extract made of such a document) except—
- (a) to a person who would have been authorised to request the information or document under this Order;
 - (b) to a person holding or acting in any office under or in the service of—
 - (i) the Crown in right of the Government of the United Kingdom,
 - (ii) the Government of the Isle of Man,
 - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,
 - (iv) the States of Jersey, or
 - (v) the Government of any British overseas territory;
 - (c) for the purpose of giving assistance or cooperation, with the authority of the Governor, to—
 - (i) any organ of the United Nations, or
 - (ii) any person in the service of the United Nations, the Council of the European Union, the European Commission or the government of any State or territory;
 - (d) with a view to instituting, or otherwise for the purposes of, any proceedings—
 - (i) in the Territory, for an offence under this Order, or
 - (ii) in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory (other than the Territory), for an offence under a similar provision in any such jurisdiction;
 - (e) to the Financial Conduct Authority of the United Kingdom or to the relevant authority with responsibility in any other State or territory for regulating and supervising financial services business; or

- (f) to any third party, with the consent of a person who, in the person's own right, is entitled to the information or to possession of the document, copy or extract.

(2) In sub-paragraph (1)(f) "in the person's own right" means not merely in the person's capacity as a servant or agent of another person.

Exercise of powers: general

7.—(1) Any power exercisable by an authorised officer under this Schedule may be exercised by a person acting under the officer's authority.

(2) An authorised officer, or a person acting under the officer's authority, must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this Schedule.

(3) An authorised officer may exercise any power under paragraph 2 or 3 in relation to—

- (a) a ship within the seaward limits of the territorial sea of the Territory,
- (b) a ship registered in the Territory while it is on the high seas, or
- (c) an aircraft or vehicle in the Territory.

(4) But such a power may not be exercised in relation to a ship falling within sub-paragraph (5) unless—

- (a) in the case of a ship falling only within sub-paragraph (5)(a), the Territory is entitled under international law to exercise the power without the consent of the flag state, or
- (b) in any other case, the Governor, with the consent of the Secretary of State, has authorised the exercise of the power.

(5) A ship falls within this sub-paragraph if it is—

- (a) a ship flying the flag of, or registered in, a State or territory other than the Territory,
- (b) a warship that belongs to a government of a State or territory other than the Territory, or
- (c) any other ship that is being used by such a government only for non-commercial purposes.

(6) The Governor may authorise the exercise of a power under sub-paragraph (4)(b) only if the flag state has consented to the Territory exercising the power (whether generally or in relation to the ship in question).

(7) In giving such authority, the Governor must impose such conditions or limitations on the exercise of the power as are necessary to give effect to any conditions or limitations imposed by the flag state.

(8) Anything done in accordance with this Schedule is not to be treated as a breach of any restriction imposed by statute or otherwise.

(9) This Schedule is without prejudice to any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

Interpretation

8. In this Schedule—

"authorised officer" means—

- (a) a commissioned officer of the armed forces of the Territory,
- (b) a police or customs officer of the Territory, or
- (c) a person authorised by the Governor for the purposes of this Schedule, whether generally or in a particular case;

“high seas” means seas that are not within the seaward limits of—

- (a) the territorial sea of the Territory, or
- (b) the territorial sea adjacent to a State or territory outside the Territory;

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

“relevant person” means—

- (a) in relation to a ship, aircraft or vehicle within the Territory or registered in the Territory—
 - (i) the owner or master of the ship,
 - (ii) the charterer, operator or commander of the aircraft, or
 - (iii) the driver or operator of the vehicle;
- (b) in relation to any other ship or aircraft that is for the time being chartered to a person to whom this Order applies—
 - (i) the charterer of the ship or aircraft, or
 - (ii) the master of the ship, or operator of the aircraft, if the master or operator is a person to whom this Order applies.”.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Syria (Restrictive Measures) (Overseas Territories) Order 2012, as amended, (“the principal Order”). The principal Order gives effect in specified Overseas Territories to sanctions in respect of Syria adopted by the European Union in Council Decision 2011/782/CFSP adopted on 1st December 2011, as amended.

This Order amends the principal Order to give effect to changes to the sanctions measures adopted by the European Union in Council Decision 2013/255 CFSP of 31 May 2013 as amended by Council Decision 2013/760/CFSP of 13 December 2013. This Order modifies the provisions relating to the import of restricted goods such that no offence will be committed where the import etc has been authorised by the Governor, with the consent of the Secretary of State. It also modifies the grounds on which the Governor may grant a licence authorising activity which would otherwise be prohibited by the asset freeze and introduces a new offence of importing, exporting, transferring stolen Syrian cultural property, or providing brokering services related to those activities. It replaces articles 19 to 24 and Schedule 5 of the principal Order with a new Schedule 5 containing updated provisions relating to evidence and information.

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