
STATUTORY INSTRUMENTS

2015 No. 1586

CUSTOMS

The Export Control (Yemen Sanctions) Regulations 2015

<i>Made</i>	- - - -	<i>2nd August 2015</i>
<i>Laid before Parliament</i>		<i>5th August 2015</i>
<i>Coming into force</i>	- -	<i>27th August 2015</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972⁽¹⁾ 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⁽²⁾.

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 (Yemen Sanctions) Regulations 2015 and come into force on 27th August 2015.

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

- (a) in the United Kingdom by any person;
- (b) elsewhere by any person who is a United Kingdom person within the meaning of section 11 of the Export Control Act 2002⁽³⁾.

Interpretation

2.—(1) In these Regulations—

“the 1979 Act” means the Customs and Excise Management Act 1979⁽⁴⁾;

(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 these Regulations.

(3) 2002 c.28.

(4) 1979 c.2.

“the Yemen Regulation” means Council Regulation (EU) No 1352/2014⁽⁵⁾, as amended by Council Regulation (EU) 2015/878⁽⁶⁾.

(2) An expression used both in these Regulations and the Yemen Regulation has the meaning given in the Yemen Regulation.

PART 2

Offences in relation to prohibitions in the Yemen Regulation

Offences in relation to prohibitions in the Yemen Regulation

3. A person who is knowingly concerned in an activity prohibited by any of the following Articles of the Yemen Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 1a(a) (prohibition on provision of technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, directly or indirectly to any natural or legal person, entity or body, as listed in Annex I to the Yemen Regulation);
- (b) Article 1a(b) (prohibition on provision of financial assistance related to military activities, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, etc. of arms and related materiel, or for the provision of related technical assistance, directly or indirectly to any natural or legal person, entity or body, as listed in Annex I to the Yemen Regulation).

PART 3

Supplementary provisions as to offences

Circumvention of prohibitions

4. A person commits an offence and may be arrested where that person 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 Article 1a(a) or Article 1a(b) of the Yemen Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

PART 4

Enforcement and penalties

Penalties

5. A person guilty of an offence under regulation 3 or 4 of these Regulations is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine, or to both;

(5) OJ No L 365, 19.12.2014, p.61.

(6) OJ No L 143, 9.6.2015, p.1.

- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

Application of the 1979 Act

6.—(1) Where the Commissioners for Her Majesty’s Revenue and Customs investigate or propose 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 138 of the 1979 Act (provision as to arrest of persons)(7) 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 145(8), 146(9), 146A(10), 147(11), 148, 150(12), 151(13), 152(14), 154(15), and 155(16) of the 1979 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 1 of the 1979 Act.

PART 5

General

Amendment to the Export Control Order 2008 in relation to Yemen

7. In Schedule 4 to the Export Control Order 2008(17)—

- (a) in Part 3, insert “Yemen” at the end;
(b) in Part 4, omit “Yemen”.

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- (7) Section 138 was amended by the Police and Criminal Evidence Act 1984 (c.60), sections 114(1) and 119, Schedule 6, paragraph 37 and Schedule 7, Part I; by the Finance Act 1988 (c.39), section 11; by the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341), article 90(1) and Schedule 6, paragraph 9; and by the Serious Organised Crime and Police Act 2005 (c.15), Schedule 7, paragraph 54.
- (8) Section 145 was amended by the Police and Criminal Evidence Act 1984, section 114(1); and by the Commissioners for Revenue and Customs Act 2005 (c.11), sections 50(6), 52(2), Schedule 4, paragraphs 20 and 23.
- (9) Section 146 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 22.
- (10) Section 146A was inserted by the Finance Act 1989 (c.26), section 16(1) and amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraphs 20 and 24.
- (11) Section 147 was amended by the Magistrates’ Courts Act 1980 (c.43), section 154 and Schedule 7, paragraph 176; by the Criminal Justice Act 1982 (c.48), sections 77 and 78, Schedule 14, paragraph 42 and Schedule 16; and by the Finance Act 1989, section 16(2), (4), 187, Schedule 17, Part I.
- (12) Section 150 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20 and 25.
- (13) Section 151 was amended by the Magistrates’ Courts Act 1980, section 154 and Schedule 7, paragraph 177.
- (14) Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, sections 50(6) and 52(1) and (2), Schedule 4, paragraphs 20 and 26 and Schedule 5.
- (15) Section 154 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 23.
- (16) Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, sections 50(6), 52(2), Schedule 4, paragraphs 20, 21(j) and 27 and Schedule 5.
- (17) S.I. 2008/3231, to which there are amendments not relevant to these Regulations.

Review

- 8.—(1) The Secretary of State 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 Secretary of State must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Yemen 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 Yemen 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.

2nd August 2015

Anna Soubry
Minister of State for Small Business, Industry
and Enterprise
Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations make provision for the enforcement of certain trade restrictions in view of the situation in Yemen as specified in Council Regulation (EU) No 1352/2014 (OJ L No 365, 19.12.2014, p.60) (the “Yemen Regulation”), as amended by Council Regulation (EU) 2015/878 (OJ L No 143, 9.6.2015, p.1).

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 restrictive measures include a prohibition on the provision of technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, directly or indirectly to any natural or legal person, entity or body as listed in Annex I to the Yemen Regulation. There is also a prohibition on the provision of financial assistance related to military activities, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, etc. of arms and related materiel, or for the provision of related technical assistance, directly or indirectly to any natural or legal person, entity or body as listed in Annex I to the Yemen Regulation.

Regulation 3 creates offences for the contravention of the trade restrictions in the Yemen Regulation and regulation 4 creates an offence for circumvention of these restrictions.

Regulation 5 sets out the penalties relating to the offences in the Regulations and regulation 6 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 7 removes Yemen from the list of countries subject to transit control for category B goods in Part 4 of Schedule 4 to the Export Control Order 2008 (S.I. 2008/3231) to the list of countries embargoed and subject to transit control for military goods in Part 3 of that Schedule.

Regulation 8 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. 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).