
STATUTORY INSTRUMENTS

2011 No. 1080

**The Libya (Restrictive Measures)
(Overseas Territories) Order 2011**

PART 1

LISTS

GENERAL

Offences in connection with applications for licences, conditions attaching to licences, etc.

22.—(1) If, for the purposes of obtaining any licence under this Order, any person makes any statement or furnishes any document or information which to their knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, they shall be guilty of an offence under this Order.

(2) Subject to paragraph (3), any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order.

(3) No person shall be guilty of an offence under paragraph (2) where they prove that the condition with which they failed to comply was modified, otherwise than with their consent, by the Governor after the doing of the act authorised by the licence.

Evidence and information

23.—(1) The provisions of Schedule 6 which contains further provisions about evidence and information shall have effect in order to facilitate the obtaining, by or on behalf of the Governor—

- (a) of evidence or information for the purpose of securing compliance with or detecting evasion of:
 - (i) this Order in the Territory; or
 - (ii) any law making provision with respect to the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory;
- (b) of evidence of the commission of—
 - (i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or
 - (ii) with respect to any of the matters regulated by this Order, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory;
- (c) of evidence or information establishing—
 - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by a designated person; or

- (ii) the nature of any financial transactions entered into by a designated person;
 - (d) of evidence or information considered by the Governor appropriate to cooperate with any domestic or international investigation relating to the funds, economic resources or financial transactions of a designated person.
- (2) No information furnished or document produced by any person in pursuance of a request made under Schedule 6 shall be disclosed except—
- (a) with the consent of the person by whom the information was furnished or the document was produced, provided that a person who has obtained information or is in possession of a document only in their capacity as a servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or the possession of that document in his or her own right;
 - (b) to any person empowered under Schedule 6 to request that the information furnished or the document produced be furnished or produced to any person holding or acting in any office under or in the service of—
 - (i) the Crown in respect 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 other British overseas territory;
 - (c) with a view to the institution of, or otherwise for the purposes of, any proceedings—
 - (i) in the Territory, for an offence under this Order or with respect to any of the matters regulated by this Order, for any offence relating to customs, or
 - (ii) for an offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas Territory;
 - (d) to the Financial Services Authority of the United Kingdom or to any equivalent authority of any other country or territory.

Penalties

- 24.—(1) A person guilty of an offence under articles 4(1), 5(3), 6, 7(3) or 8(3) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (2) A person guilty of an offence under articles 10(2), 11(2), 13, 21(3)(b)(ii) or paragraphs 4(1)(b) or (d) of Schedule 6 is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (3) A person guilty of an offence under articles 17(4) or 22(1) or (2) is liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine of any amount or to both;
 - (b) on summary conviction to a fine not exceeding £5,000 or its equivalent or to both.

(4) A person guilty of an offence under articles 21(3)(a), 21(3)(b)(i), 21(3)(c), 30(4) or paragraph 4(1)(a) or (c) of Schedule 6 shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) A person guilty of an offence under articles 16 or 17(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(6) If an offence under this Order committed by a body corporate is shown—

(a) to have been committed with the consent or connivance of an officer of the body corporate,
or

(b) to be attributable to any neglect on the part of an officer of the body corporate,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

Proceedings

25.—(1) Proceedings against any person for an offence may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(2) Summary proceedings for an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(3) No proceedings for an offence shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions.

(4) Irrespective of whether such consent has been obtained, paragraph (3) does not prevent—

(a) the arrest of any person in respect of such an offence, or

(b) the remand in custody or on bail of any person charged with such an offence.

(5) In this article, “offence” means an offence under this Order.

(6) No proceedings shall be instituted in the Territory by the Libyan authorities, or of any person or body in Libya, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Security Council in resolutions 1970 (2011) and 1973 (2011).

Notices

26.—(1) This article has effect in relation to any notice to be given to a person by the Governor under articles 14(4)(b) or 15(5)(a).

(2) Any such notice may be given—

(a) by posting it to their last known address; or

(b) where the person is a body corporate, by posting it to the registered or principal office of the body corporate in the Territory.

(3) Where the Governor does not have an address in the Territory for the person, the Governor shall make arrangements for the notice to be given to that person at the first available opportunity.

Exercise of the power of the Governor

27.—(1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his or her functions under this Order to any person or class or description of persons approved by the Governor.

(2) In the case of a delegation referred to in paragraph (1) of this article, references in this Order to the Governor are to be construed accordingly.

(3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in this Order.

Postponement etc. of the operation of Security Council resolutions

28.—(1) If the Security Council of the United Nations takes any decision which has the effect of postponing, suspending or cancelling the operation of Security Council resolutions 1970 (2011) and 1973 (2011), in whole or in part, Part 1 of this Order shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, from the date that the decision of the Security Council comes into force.

(2) The Governor shall publish particulars of the decision in a notice in the Gazette.

Miscellaneous

29.—(1) Any provision of this Order which prohibits the doing of an act except under the authority of a licence granted by the Governor shall not have effect in relation to any such act done anywhere other than the Territory, provided it is duly authorised.

(2) An act is duly authorised for the purposes of paragraph (1) if—

- (a) it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (and that law substantially corresponds to the relevant provisions of this Order); and
- (b) that licence is granted by the authority competent in that behalf under that law.