

EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (SUDAN AND SOUTH SUDAN SANCTIONS) AND
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2011

2011 No. 2925

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The Export Control (Sudan and South Sudan Sanctions) and (Miscellaneous Amendments) Regulations 2011 (“the Regulations”) make provision for penalties and enforcement of certain restrictive measures specified in Council Regulation (EC) No 131/2004 (“the Sudan and South Sudan Regulation”) as last amended by Council Regulation (EU) No 1215/2011 (“the amending Sudan and South Sudan Regulation”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 On 18 July 2011, following the independence of South Sudan on 9 July 2011, the Council of the European Union adapted the existing restrictive measures against Sudan so as to include South Sudan by means of Council Decision 2011/423/CFSP which amends Common Position 2005/411/CFSP. On 24 November 2011, the Council adopted the amending Sudan and South Sudan Regulation which replaced the title and amended the scope of the restrictive measures imposed by the Sudan and South Sudan Regulation.

4.2 The Sudan and South Sudan Regulation contains a number of restrictive measures which include prohibitions on technical assistance, financing or financial assistance in relation to military activities to any person, entity or body in, or for use in Sudan or South Sudan.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom and to United Kingdom persons, within the meaning of section 11 of the Export Control Act 2002 (2002 c.28) wherever in the world they might be.

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 The government's policy is to support the EU legislation concerning restrictive measures in respect of Sudan and South Sudan.

7.2 The Regulations provide for national offences and penalties that are required to supplement Articles 2 and 3 of the Sudan and South Sudan Regulation. These provisions are concerned with prohibiting technical assistance, financing or financial assistance in relation to military activities to any person, entity or body in, or for use in Sudan or South Sudan.

7.3 The Regulations also provide for the revocation of the Sudan (Technical Assistance and Financing and Financial Assistance) (Penalties and Licences) Regulations 2004 (S.I.2004/373), which are being replaced by these Regulations as they made provision for penalties and enforcement of the original restrictive measures against Sudan, which have now been amended by the Sudan and South Sudan Regulation.

7.4 The Regulations amend various instruments by removing the unintended widely drawn provisions dealing with the limited overlap between the Export Control Order 2008 (S.I. 2008/3231) and those instruments.

7.4 The Regulations are also in line with the general policy to implement EU Legislation in a timely and appropriate manner.

8. Consultation outcome

8.1 This is purely a technical implementation of a directly applicable EU Regulation, so no consultation was necessary.

9. Guidance

9.1 A notice to exporters shall be published on <http://www.bis.gov.uk/policies/export-control-organisation/eco-notices-exporters> explaining the purpose and effect of the Sudan and South Sudan Regulation.

10. Impact

10.1 The Regulations provide for the offences and penalties in relation to certain restrictive measures in the Sudan and South Sudan Regulation which came into force on 25 November 2011 and which are directly applicable in Member States. Thus, a regulatory impact assessment has not been prepared

for this instrument as it has no or minimal impact on business, charities or voluntary bodies.

10.2 There is no or minimal impact on the public sector.

11. Regulating small business

11.1 This legislation applies to small business.

12. Monitoring & review

12.1 The Department will monitor the developments in Sudan and South Sudan, the actions taken by the United Nations and the EU, the impact of the Sudan and South Sudan Regulation and give effect to any necessary changes if the sanctions are reviewed.

13. Contact

13.1 Christopher Chew at the Department for Business, Innovation and Skills, Tel: 020 7215 8088 or email: chris.chew@bis.gsi.gov.uk can answer any queries regarding the instrument.

**Department for Business, Innovation and Skills
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