

**EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (LIBYA) ORDER 2011**

2011 No. 825

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 (Libya) Order 2011 makes provision relating to the enforcement of the elements falling within the remit of the Department for Business, Innovation and Skills (“BIS”) of Council Regulation (EU) No 204/2011 of 2 March 2011 concerning restrictive measures in view of the situation in Libya (“the Libya Regulation”).

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

3.1 The Department is today laying before Parliament the Export Control (Libya) Order 2011 (“the Libya Order”).

3.2 The Libya Regulation to which this Libya Order supplements was adopted by the EU as an urgent response to the grave concern regarding the situation unfolding in Libya.

3.3. The Department considers that in order to give effect to our European obligations in respect of Libya, it is necessary for the Libya Order to come into force as soon possible. In particular, the Libya Regulation, which is directly applicable, came into force immediately on its publication in the Official Journal on 3 March 2011. The offences and penalties provisions in the Libya Order are needed to make this Regulation fully effective in the UK.

3.4 Thus in view of the urgency of this measure, the Department is seeking not to apply the 21 day rule so that the Order can come into force the day after it is laid in Parliament.

4. **Legislative Context**

4.1 The United Nations Security Council Resolution 1970 (2011) was adopted on 26 February 2011. The response to this Resolution has been co-ordinated at European Level. The Council of the European Union adopted a Decision (Decision 2011/137/CFSP) on 28 February 2011 concerning

restrictive measures against Libya. The Libya Regulation implements those elements of that Decision that fall within the EU competence.

4.2 Thus the Libya Regulation contains a number of restrictive measures in relation to Libya. These include prohibitions on trade, technical assistance, financing, financial assistance or brokering in equipment which may be used for internal repression and restrictions on the provision of technical assistance, financing or financial assistance related to the goods and technology listed in the Common Military List of the European Union, to any entity or body in Libya or for use in Libya.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

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 against Libya, in the same way as we support the United Nations Security Council Resolution from which it derives.

7.2 The Libya Order provides for national offences, penalties and licensing provisions that are required to supplement articles 2 and 3 of the Libya Regulation. These provisions are concerned with prohibiting:-

- Trade with Libya in equipment which may be used for internal repression;
- Technical and financial assistance or brokering regarding such internal repression equipment;
- Technical and financial assistance related to the goods and technology listed in the Common Military List of the European Union.

7.3 The Libya Order also provides for an amendment to the Export Control Order 2008 (S.I. 2008/3231) to make Libya an "embargo destination" for the purposes of the trade controls in that Order, so that stricter levels of control apply, including restrictions on the activities of United Kingdom persons overseas.

7.4 The Libya Order is also in line with the general policy to implement EU Legislation in a timely and appropriate manner.

- *Consolidation*

7.5 No consolidation of the 2008 Order is planned.

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 will be published explaining the implementation of Council Regulation (EU) No. 204/2011.

10. Impact

10.1 The Libya Order provides for the offences and penalties in relation to the sanctions specified in the Libya Regulation which came into force on 3 March 2011 and is 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 Libya, the actions taken by the United Nations and the EU and the impact of the Libya Order 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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