

**EXPLANATORY MEMORANDUM TO
THE IRAQ (UNITED NATIONS SANCTIONS) (OVERSEAS TERRITORIES)
(AMENDMENT) ORDER 2012**

2012 No. 2748

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

This Order consolidates for the UK Overseas Territories the asset freezing provisions for Iraq which have been imposed by the United Nations Security Council in successive resolutions. It also gives effect to the termination of the Development Fund for Iraq which was an account of the Central Bank of Iraq to which frozen Iraqi assets were transferred by UN Members and payments for petroleum products originating in Iraq were made. Lastly, the Order amends the definition of “restricted goods” in the Iraq (United Nations Sanctions) (Overseas Territories) Order 2003.

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

None.

4. **Legislative Context**

4.1 This Order is made in exercise of statutory powers under the United Nations Act 1946, the Saint Helena Act 1833, the British Settlement Acts 1887 and 1945 and the legislative power of the royal prerogative.

4.2 The statutory and prerogative powers to legislate for the Overseas Territories are applicable to the Overseas Territories as follows:

- (i) The United Nations Act 1946 applies to all Overseas Territories;
- (ii) The Saint Helena Act 1833 applies to St Helena;

(iii) The British Settlement Acts 1887 and 1945 are applicable to Ascension and Tristan da Cunha, British Antarctic Territory, the Falkland Islands, Pitcairn (including Henderson, Ducie and Oeno Islands), and South Georgia and the South Sandwich Islands;

(iv) The prerogative legislative power is applicable to Anguilla, British Indian Ocean Territory, Cayman Islands, Montserrat, the Sovereign Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and the Virgin Islands.

5. Territorial Extent and Application

The Order applies to the following territories: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, the Falkland Islands, Montserrat, Pitcairn including Henderson, Ducie and Oeno Islands, St Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia, the Turks and Caicos Islands and the Virgin Islands. Schedules 6 and 7 also apply to Bermuda and Gibraltar.

6. European Convention on Human Rights

As this instrument is not subject to Parliamentary approval and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Order consolidates the asset freezing provisions which have been imposed by the United Nations Security Council in successive resolutions and revokes certain articles of previous Overseas Territories orders (as amended), which gave effect to immunity provisions applied to implement the measures imposed by the United Nations Security Council in relation to Iraq. The immunity provisions were established by UNSCR 1483 (2003) following the establishment of an internationally recognised, representative Government of Iraq and in light of the need to restructure Iraq's debt. They gave immunity from legal proceedings to petroleum, petroleum products, and natural gas originating in Iraq, the export sales of which were to be

deposited into the Development Fund for Iraq. These provisions were terminated by UNSCR 1956 (2010) with effect from 30 June 2011 following the termination of the Development Fund for Iraq.

7.2 This Order also amends the definition of “restricted goods” in the Iraq (United Nations Sanctions) (Overseas Territories) Order 2003 to reflect changes in the UK legislation on arms exports.

8. Consultation outcome

The Overseas Territories to which the Order extends were consulted on the Order in draft.

9. Guidance

Guidance may be sought from the contact below.

10. Impact

10.1 No impact on business, charities or the voluntary sector in the United Kingdom.

10.2 No impact on the public sector in the United Kingdom.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business in the United Kingdom.

12. Monitoring & review

UN sanctions are monitored and reviewed by the United Nations Security Council.

13. Contact

Gerry Regan at the Foreign and Commonwealth Office, Tel: 020 7008 6207 or email:
Gerry.Regan@fco.gov.uk can answer any queries regarding the instrument.