

**EXPLANATORY MEMORANDUM TO
THE LIBYA (RESTRICTIVE MEASURES) (OVERSEAS TERRITORIES)
(AMENDMENT) ORDER 2013**

2013 No. 3160

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 gives effect in the specified Overseas Territories to measures adopted by the United Nations Security Council in resolution 2095 (2013) and the European Union in Council Decisions 2013/45/CFSP of 22nd January 2013 and 2013/182/CFSP of 22nd April 2013. These measures were implemented at EU level by Council Regulation (EU) No. 488/2013 of 27th May 2013.

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 Settlements 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, to implement sanctions measures, are applicable to the Overseas Territories as follows:

(i) The Saint Helena Act 1833 applies to St Helena;

(ii) The British Settlements 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;

(iii) 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

This Order amends Parts 1 and 2 of the Libya (Restrictive Measures) (Overseas Territories) Order 2011. Parts 1 and 2 of that Order apply to the following territories: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands, Montserrat, Pitcairn, 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 in the Island of Cyprus, Turks and Caicos Islands and the Virgin Islands. Part 1 of the 2011 Order also applies to Bermuda.

These measures are implemented in Gibraltar by Council Regulation (EU) No 488/2013 and local legislation.

6. European Convention on Human Rights

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

7. Policy background

United Nations Security Council resolution 2095 (2013) and Council Decision (EU) of 22nd April made changes to the arms embargo on Libya. States no longer require the approval of the UN Sanctions Committee before selling, supplying or transferring arms or assistance to Libya where such activity is solely for the benefit of the Libyan Government for security or disarmament purposes. Neither do States have to notify the UN Sanctions Committee when selling, supplying or transferring to Libya non-

lethal military equipment or related technical assistance when it is intended solely for humanitarian or protective use.

2.3 The EU Council Decision of 22nd January 2013 also introduced a new exemption in respect of the frozen accounts of EU listed persons. These persons may now benefit from, or make, payments in accordance with judicial or administrative decisions or liens where such decisions or liens became enforceable after the persons were listed. This will facilitate the repatriation to Libya of frozen assets which have been deemed as misappropriated in the course of judicial proceedings.

8. Consultation outcome

The Overseas Territories to which this Order applies were consulted about the Order.

9. Guidance

Guidance may be sought from the contact below.

10. Impact

There is no impact on business, charities or the voluntary sector in the United Kingdom. There is no impact on the public sector in the United Kingdom. An Impact Assessment has therefore 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

EU restrictive measures are monitored and reviewed by the Council of the European Union.

13. Contact

Hester Waddams at the Foreign and Commonwealth Office can answer any queries regarding the instrument: Tel: 020 7008 3068 or E-mail: hester.waddams@fco.gov.uk.