

EXPLANATORY MEMORANDUM TO

THE SOMALIA (SANCTIONS) (OVERSEAS TERRITORIES) (AMENDMENT) ORDER 2020

2020 No. 282

1. Introduction

- 1.1 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

- 2.1 This instrument amends the Somalia (Sanctions) (Overseas Territories) Order 2012 (S.I. 2012/3065) (the “principal Order”). It gives effect in all Overseas Territories (except Bermuda and Gibraltar which implement sanctions through their own domestic legislation) to amendments to the United Nations sanctions in respect of Somalia, made by United Nations Security Council Resolution 2498 (2019) adopted on 15 November 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is not subject to parliamentary procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

- 4.1 The extent of this instrument is: 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 (“the Territories”).

- 4.2 The application of this instrument is the Territories and:

- (a) any person elsewhere who is a British citizen, a British overseas territories citizen, a British overseas citizen, a British subject, a British national (overseas) or a British protected person and is ordinarily resident in a Territory;
- (b) a body incorporated or constituted under the law of a Territory; and
- (c) any person on board a ship or aircraft that is registered in a Territory.

5. European Convention on Human Rights

- 5.1 As the instrument is not subject to parliamentary procedure, no statement is required.

6. Legislative Context

- 6.1 This instrument 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.
- 6.2 The statutory and prerogative powers to legislate for the Territories to implement enforcement measures associated with the application of sanctions are applicable to the Territories as follows:
- (i) the United Nations Act 1946 applies to all the Territories;
 - (ii) the Saint Helena Act 1833 applies to St Helena;
 - (iii) 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);
 - (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.

7. Policy background

What is being done and why?

- 7.1 The United Nations Security Council first established a general arms embargo in respect of Somalia in resolution 733 (1992). Through a series of resolutions the Security Council has expanded this sanctions regime to encompass various forms of related assistance and has introduced a number of exemptions. The Security Council has also adopted a prohibition on the direct or indirect import of charcoal from Somalia, and targeted measures (namely an asset-freeze and a travel ban) against persons designated by the Sanctions Committee.
- 7.2 On 15 November 2019 the Security Council adopted resolution 2498 (2019) which revised the existing sanctions regime in respect of Somalia. In particular, it introduced a new prohibition on the supply of components for improvised explosive devices where there is sufficient evidence to demonstrate that the items will be used, or a significant risk that they may be used, for the manufacture of improvised explosive devices in Somalia. It also updated and revised the exemptions and derogations relating to the general arms embargo, including the requirements for notifications to or approval by the Sanctions Committee in relation to specific derogations.
- 7.3 This instrument gives effect to the United Kingdom's obligations under the United Nations Charter to implement in the Territories any binding sanctions adopted by the Security Council.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 The Foreign and Commonwealth Office will keep the need for consolidation under review.

10. Consultation outcome

10.1 The Territories have been consulted on the instrument in draft.

11. Guidance

11.1 No guidance will be issued.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies in the United Kingdom.

12.2 There is no, or no significant, impact on the public sector in the United Kingdom.

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

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses in the United Kingdom.

14. Monitoring & review

14.1 United Nations sanctions are monitored and reviewed by the Security Council, and by a Sanctions Committee and a Group of Experts.

14.2 If the sanctions are suspended or lifted by the Security Council, this instrument and the principal Order will be reviewed and action taken as necessary.

15. Contact

15.1 Palan Suchak at the Foreign and Commonwealth Office, Telephone: 0207 008 4628 or email: Sanctions.SIs@fco.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Lisa Maguire, Deputy Director and Head of the Sanctions Unit at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lord Ahmad of Wimbledon, Minister of State at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.