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STATUTORY INSTRUMENTS

2016 No. 787

CUSTOMS

The Export Control (Libya Sanctions) Order 2016

Made - - - -	*20th July 2016*
Laid before Parliament	*21st July 2016*
Coming into force - -	*12th August 2016*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 [F1] in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States [F2].

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes this Order in exercise of the powers conferred by section 2(2) of, and paragraph 1A [F3] of Schedule 2 to, the European Communities Act 1972 and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002 [F4].

F1 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
F2 S.I. 1994/757, to which there are amendments not relevant to this Order.
F3 Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by the European Union (Amendment) Act 2008, Schedule, Part 1.
F4 2002 c.28.

PART 1

Introductory

Citation and commencement

1. This Order may be cited as the Export Control (Libya Sanctions) Order 2016 and comes into force on 12th August 2016.

Revocation

2. The following Orders are revoked—

(a) the Export Control (Libya) Order 2011 [F5]; and

(b) the Export Control (Liberia) Order 2011 [F6].

F5 S.I. 2011/825.
F6 S.I. 2011/145.

Application

3. An offence may be committed under this Order—

(a) in the United Kingdom by any person;

(b) elsewhere by any person who is a United Kingdom person within the meaning of section 11 of the Export Control Act 2002.

Interpretation

4.—(1) In this Order—

"the 1979 Act" means the Customs and Excise Management Act 1979 [F7];

"EU authorisation" means an authorisation granted under Article 2(4) or 3(4) of the Libya Regulation; and

"the Libya Regulation" means Council Regulation (EU) 2016/44 [F8] concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011, and a reference to an Annex to that Regulation is a reference to that Annex as amended from time to time.

(2) An expression used in both this Order and in the Libya Regulation has the meaning that it bears in that Regulation.

F7 1979. c.2.
F8 OJ No L 12, 19.1.2016, p.1.

PART 2

Offences relating to prohibitions in the Libya Regulation

Offences related to equipment which might be used for internal repression as listed in Annex I

5. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following Articles of the Libya Regulation with intent to evade a prohibition in that Article commits an offence and may be arrested—

(a) Article 2(1)(a) (prohibition on the sale, supply, etc. of equipment that might be used for internal repression as listed in Annex I to any person, entity or body in Libya or for use in Libya);

(b) Article 2(2) (prohibition on the purchase, import or transport from Libya of equipment that might be used for internal repression as listed in Annex I);

(c) Article 3(1)(b) (prohibition on the provision of technical assistance related to equipment which might be used for internal repression as listed in Annex I to any person, entity or body in Libya or for use in Libya).

Offences related to goods and technology listed in the Common Military List and financing or financial assistance related to goods listed in Annex I

6. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following Articles of the Libya Regulation with intent to evade a prohibition in that Article commits an offence and may be arrested—

(a) Article 3(1)(a) (prohibition on the provision of technical assistance related to the goods and technology listed in the Common Military List to any person, entity or body in Libya or for use in Libya);

(b) Article 3(1)(c) (prohibition on the provision of financing or financial assistance related to the goods and technology listed in the Common Military List or in Annex I to any person, entity or body in Libya or for use in Libya);

(c) Article 3(1)(d) (prohibition on the provision of technical assistance, financing or financial assistance related to the provision of armed mercenary personnel in Libya or for use in Libya).

PART 3

Supplementary offences

Circumvention of prohibitions in the Libya Regulation

7.—(1) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

(a) to circumvent any of the prohibitions in Articles 2(1)(a), 3(1)(a) and 3(1)(b) of the Libya Regulation; or

(b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

(a) to circumvent any of the prohibitions in Articles 2(2), 3(1)(c) and 3(1)(d) of the Libya Regulation; or

(b) to enable or facilitate the contravention of any such prohibition.

Offences related to an EU authorisation

8.—(1) A person commits an offence and may be arrested where, for the purpose of obtaining an EU authorisation, that person—

(a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or

(b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in the circumstances referred to in paragraph (1) is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless—

(a) the EU authorisation was modified after the completion of the act authorised; and

(b) the alleged failure to comply would not have been a failure had the EU authorisation not been so modified.

PART 4

Enforcement and penalties

Penalties

9.—(1) A person guilty of an offence under article 5(a), 5(c), 6(a) or 7(1) of this Order is liable—

(a) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding six months or to a fine, or to both;

(ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine, or to both.

(2) In relation to an offence committed after the commencement of section 154(1) of the Criminal Justice Act 2003 [F9], for "six months" in paragraph (1)(a)(i) substitute " twelve months ".

(3) A person guilty of an offence under article 5(b), 6(b), 6(c), 7(2) or 8 of this Order is liable—

(a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(4) In the case of an offence committed under the 1979 Act in connection with the prohibition of exportation in Article 2(1)(a) of the Libya Regulation, sections 68(3)(b) [F10] and 170(3)(b) [F11] of that Act have effect as if for the words "7 years" there were substituted the words " 10 years ".

(5) In the case of an offence committed under the 1979 Act in connection with the prohibition of importation in Article 2(2) of the Libya Regulation, sections 50(4)(b) [F12] and 170(3)(b) of that Act have effect as if for the words "7 years" there were substituted the words " 10 years ".

F9 2003 c.44. At the date of this Order, section 154(1) had not been commenced.

F10 Section 68(3)(b) was amended by the Finance Act 1988 (c.39), **section 12(1)(a)**; by the Criminal Justice and Immigration Act 2008 (c.4), **Schedule 17**, Part 2, paragraph 8(4)(a); and by the Anti-Social Behaviour, Crime and Policing Act 2014 (c. 12), **section 111(7)(a)**.

F11 Section 170(3)(b) was amended by the Finance Act 1988, section 12(1)(a); by the Import of Seal Skins Regulations 1996/2686, regulation 4(2)(a); by the Criminal Justice and Immigration Act 2008, Schedule 17, Part 2, paragraph 8(5)(a); and by the Anti-Social Behaviour, Crime and Policing Act 2014, section 111(4)(a).

F12 Section 50(4)(b) was amended by the Finance Act 1988, section 12(1)(a); by the Import of Seal Skins Regulations 1996/2686, regulation 4(1)(a); by the Criminal Justice and Immigration Act 2008, Schedule 17, Part 2, paragraph 8(3)(a); and by the Anti-Social Behaviour, Crime and Policing Act 2014, section 111(3)(a).