

2006 No. 2065

CUSTOMS

The Export Control (Liberia) Order 2006

Made - - - - *25th July 2006*

Laid before Parliament *26th July 2006*

Coming into force - - *27th July 2006*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 3, 4, 5 and 7 of the Export Control Act 2002(a):

1.—(1) This Order may be cited as the Export Control (Liberia) Order 2006 and shall come into force on 27th July 2006.

(2) In this Order—

“the Regulation” means Council Regulation (EC) No. 234/2004 of 10 February 2004(b) as amended by Council Regulation (EC) No. 1126/2006 of 24 July 2006(c); and

“customs and excise Acts”, “assigned matter” and “prescribed sum” have the same meanings as in section 1 of the Customs and Excise Management Act 1979(d).

2. The Liberia (Technical Assistance and Financing and Financial Assistance) (Penalties and Licences) Regulations 2004(e) are revoked.

3. A person who, except under the authority of a licence granted under this Order, infringes any of the following prohibitions in the Regulation—

(a) Article 2(a) prohibiting the grant, sale, supply or transfer of technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related material of all types, directly or indirectly to any person, entity or body in, or for use in, Liberia; or

(b) Article 2(b) prohibiting the provision of financing or financial assistance related to military activities, for any sale, supply, transfer or export of arms and related material, directly or indirectly to any person, entity or body in, or for use in, Liberia; or

(c) Article 2(c) prohibiting the participation, knowingly or intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in Article 2(a) or (b),

shall be guilty of an offence and may be arrested.

(a) 2002 c.28.

(b) O.J. No. L 40/1, 12.2.2004.

(c) O.J. No. L 201/1, 25.7.2006.

(d) 1979 c.2.

(e) S.I. 2004/432.

4. A person who is knowingly concerned in the transactions set out in article 3 of this Order with intent to evade a prohibition in that article shall be guilty of an offence and may be arrested.

5.—(1) Authorisation for the transactions set out in article 3 shall in the United Kingdom be by way of a licence in writing granted by the Secretary of State.

(2) If, for the purpose of obtaining a licence, a person—

- (a) makes any statement or furnishes any document or information which to his 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,

that person shall be guilty of an offence; and any licence granted in connection with the application for which the false statement was made or the false document or information furnished shall be void as from the time it was granted.

(3) A person who, having acted under the authority of a licence granted under this Order, fails to comply with any of the requirements or conditions to which the licence is subject shall be guilty of an offence, unless—

- (a) the licence had been modified by the Secretary of State; and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
- (c) the licence was modified after the doing of the act authorised by the licence.

6.—(1) A person guilty of an offence under article 3, or article 5(2) or (3) of this Order shall be liable—

- (a) on summary conviction to a fine of the prescribed sum or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment to a fine of any amount or to imprisonment for a term not exceeding two years, or to both.

(2) A person guilty of an offence under article 4 of this Order shall be liable—

- (a) on summary conviction to a fine of the prescribed sum or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment to a fine of any amount or to imprisonment for a term not exceeding ten years or to both.

7.—(1) Where the Commissioners for Her Majesty's Revenue and Customs investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under this Order has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 138 of the Customs and Excise Management Act 1979 (provision as to arrest of persons) shall apply to the arrest of any person for any offences under article 3 or 4 of this Order as it applies to the arrest of any person for offences under the customs and excise Acts.

(3) Sections 145 to 148 and 150 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under this Order as they apply to offences and penalties under the customs and excise Acts.

(4) Section 77A of the Customs and Excise Management Act 1979 (provision as to information powers)(a) shall apply to any person concerned in an activity requiring a licence under this Order as it applies to any person concerned in exportation of goods for which an entry is required by or

(a) Section 77A was inserted by section 10 of the Finance Act 1987 (c.16) and amended by S.I. 1992/3095.

under that Act, and accordingly references in section 77A of the Customs and Excise Management Act 1979 to exportation shall be read as including any activity requiring a licence under this Order.

25th July 2006

Malcolm Wicks
Minister of State for Energy
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in respect of Liberia in consequence of Council Regulation (EC) No. 234/2004 of 10 February 2004 (“the 2004 Regulation”) and Council Regulation (EC) No. 1126/2006 of 24 July 2006 which amends the 2004 Regulation.

Article 2 revokes the Liberia (Technical Assistance and Financing and Financial Assistance) (Penalties and Licences) Regulations 2004 which made provision in relation to the 2004 Regulation.

The Order also provides that breaches of certain provisions of the Regulation are to be criminal offences. Articles 3 and 4 create offences in respect of the provisions of Article 2 of the Regulation. Article 5 provides for the licensing of transactions set out in article 3 of the Order. Articles 6 and 7 provide penalties in respect of criminal offences created by the Order and for their enforcement.

A regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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