
STATUTORY INSTRUMENTS

2011 No. 1678

**The Syria (Restrictive Measures)
(Overseas Territories) Order 2011**

CUSTOMS POWERS AND INVESTIGATIONS

Customs powers to demand evidence of destination which goods reach

9. Any exporter or any shipper of restricted goods which have been exported or provided from the Territory shall, if so required by the Governor, furnish, within such time as the Governor may allow, proof to the Governor's satisfaction that the goods have reached either—

- (a) a destination to which they were authorised to be exported or provided by a licence granted under article 8 of this Order; or
- (b) a destination to which their exportation or provision was not prohibited by this Order,

and if they fail to do so, they shall be guilty of an offence under this Order, unless they prove that they did not consent to or connive at the goods reaching any destination other than such a destination as mentioned above.

Declaration as to goods: powers of search

10.—(1) Any person who is about to leave the Territory shall, if they are required to do so by an officer authorised for the purpose by the Governor—

- (a) declare whether or not they have with them any restricted goods which are destined for Syria or for delivery, directly or indirectly, to or to the order of any person in Syria; and
- (b) produce any such goods as aforesaid which they have with them.

(2) Any such officer, and any person acting under his or her direction, may search that person for the purpose of ascertaining whether they have with them any such goods as aforesaid, provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make such a declaration, or fails to produce any goods as aforesaid, or refuses to allow themselves to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to their knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

(5) Before or on exercising any power conferred by this article, an authorised person shall if requested to do so, produce evidence of his or her authority.

Investigation, etc. of suspected ships

11.—(1) Where any authorised officer has reason to suspect that any ship to which article 7 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) the officer may (either alone or accompanied and assisted by persons under his or her authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force.
 - (b) the officer may request the owner or the master of the ship to furnish such information relating to the ship and her cargo and produce for his or her inspection such documents so relating and such cargo as he may specify; and
 - (c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 7, the officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, shall seize and dispose of any restricted goods and may take the further action specified in paragraph (2).
- (2) The further action referred to in paragraph (1)(c) is either—
- (a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship’s cargo that is specified under paragraph (1)(b); or
 - (b) to request the master of the ship to take any one or more of the following steps—
 - (i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;
 - (ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;
 - (iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and
 - (iv) to take her to any other destination that may be specified by the officer in agreement with the master.
- (3) Without prejudice to the provisions of article 14(3), where—
- (a) a master refuses or fails to comply with a request made under paragraph (2)(b); or
 - (b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,
- any authorised officer may take such steps as appear to him or her to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.
- (4) Before or on exercising any power conferred by this article, an authorised officer shall if requested to do so, produce evidence of his or her authority.
- (5) In this article “authorised officer” means—
- (a) any commissioned naval or military officer;
 - (b) any British consular officer;
 - (c) any police or customs officer; or
 - (d) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected aircraft

12.—(1) Where any authorised person has reason to suspect that any aircraft to which article 7 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) he or she may (either alone or accompanied and assisted by persons under his or her authority) board the aircraft and search it and, for that purpose, may use, or authorise the use of reasonable force;
- (b) he or she may request the charterer, the operator and the commander of the aircraft, or any of them, to furnish such information relating to the aircraft and its cargo and produce for his or her inspection such documents so relating and such cargo as he or she may specify; and
- (c) if the aircraft is then in the Territory, any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, the operator and the commander, or any of them, to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 14(3), where an authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he or she may take such steps as appear to him or her to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, for that purpose—

- (a) may enter, or authorise entry, upon any land and upon that aircraft,
- (b) may detain, or authorise the detention of, that aircraft and any of its cargo,
- (c) shall seize and dispose of any restricted goods, and
- (d) may use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his or her authority.

(4) In this article, “authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected vehicles

13.—(1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 7—

- (a) he or she may (either alone or accompanied and assisted by persons under his or her authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;
- (b) he or she may request the operator and the driver of the vehicle, or either of them, to furnish such information relating to the vehicle and any goods contained in it and produce for his or her inspection such documents so relating and such goods as he or she may specify; and
- (c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator and driver, or either of them, to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 14(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he or she may take such steps as appear to him or her to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, for that purpose—

- (a) may enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle,

- (b) may detain, or authorise the detention of, that vehicle and any goods contained in it,
- (c) shall seize and dispose of any restricted goods, and
- (d) may use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his or her authority.

(4) In this article, “authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Provisions supplementary to articles 11 to 13

14.—(1) No information furnished or document produced by any person in pursuance of a request made under articles 11, 12 or 13 shall be disclosed except—

- (a) with the consent of the person by whom the information was furnished or the document was produced, provided that a person who has obtained information or is in possession of a document only in their capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in their own right;
- (b) to any person who would have been empowered under articles 11, 12 or 13 to request that the information or the document be furnished or produced, or to any person holding or acting in any office under or in the service of—
 - (i) the Crown in respect of the Government of the United Kingdom;
 - (ii) the Government of the Isle of Man;
 - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
 - (iv) the State of Jersey; or
 - (v) the Government of any British overseas territory;
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings—
 - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or
 - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory;
- (d) for the purpose of giving assistance or cooperation, pursuant to the Regulation, to any person in the service of the Council of the European Union, the European Commission or the government of any country;
- (e) to the Financial Services Authority of the United Kingdom or to the relevant authority with responsibility in any other country or territory for the regulation and supervision of financial services business.

(2) Any power conferred by articles 11, 12 or 13 to request the furnishing of information or the production of a document or of cargo or of goods for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo or goods produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say—

- (a) a master of a ship who disobeys any direction given under article 11(2)(a);

- (b) a master of a ship or its owner or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—
 - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under articles 11, 12 or 13 by any person empowered to make it, or
 - (ii) furnishes any document or information which to his or her knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;
 - (c) a master, an owner or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any person (or any person acting under the authority of any such person) in the exercise of their powers under articles 11, 12 or 13.
- (4) Nothing in articles 11, 12 and 13 or this article shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.