
STATUTORY INSTRUMENTS

2012 No. 1755

**The Syria (Restrictive Measures)
(Overseas Territories) Order 2012**

Customs powers and investigations

Customs powers to demand evidence of destination of prohibited goods

19.—(1) The Governor may require any person who exports or ships prohibited goods that have been exported from the Territory to provide proof to the Governor’s satisfaction that the goods have reached a permitted destination.

(2) For the purposes of paragraph (1), “a permitted destination” means—

- (a) a destination to which the exportation of prohibited goods is not prohibited by this Order, or
- (b) a destination to which the exportation of prohibited goods is authorised by a licence granted under this Order.

(3) A person (“P”) commits an offence if P fails to comply with a requirement under paragraph (1), unless P proves that P did not consent to or connive at the goods reaching a destination other than a permitted destination.

Declaration as to goods: powers of search

20.—(1) An officer authorised by the Governor may require any person who is about to leave the Territory (“P”) to—

- (a) declare whether P is carrying prohibited goods 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 that P is carrying.

(2) P commits an offence if P—

- (a) fails without reasonable excuse to comply with a requirement under paragraph (1), or
- (b) knowingly or recklessly makes a declaration which is false in a material particular.

(3) An officer authorised by the Governor, or a person acting under the officer’s authority, may search P for the purpose of finding out whether P is carrying prohibited goods.

(4) A search under paragraph (3) must be carried out by a person of the same sex as P.

(5) P commits an offence if P fails without reasonable excuse to comply with a request to be searched under paragraph (3).

(6) An officer authorised by the Governor, or a person acting under the officer’s authority, must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this article.

Investigation etc. of suspected ships

21.—(1) Where an authorised officer reasonably suspects that a ship has been, is being, or is about to be used in the commission of an offence under article 7(1)—

- (a) the officer may (alone or assisted by persons under the officer’s authority) board the ship and search it and, for that purpose, may use or authorise the use of reasonable force;
 - (b) the officer may request the owner or master of the ship to provide such information relating to the ship and its cargo and produce for inspection such documents and cargo as the officer may specify; and
 - (c) the officer must seize any prohibited goods on the ship, and may take further action in accordance with paragraph (2).
- (2) The further action referred to in paragraph (1)(c) is—
- (a) to direct the master of the ship to refrain from landing any part of the ship’s cargo specified under paragraph (1)(b) at any port specified by the officer, except with the officer’s consent, or
 - (b) to request the master of the ship to take any of the following steps—
 - (i) to stop the ship from proceeding with the voyage on which it is engaged, or about to engage, until notified by an authorised officer that the ship may so proceed;
 - (ii) if the ship is in port in the Territory, to cause it to remain there until notified by an authorised officer that the ship may depart;
 - (iii) if the ship is in any other place, to take it to a port specified by the officer and keep it there until notified by an authorised officer that the ship may depart;
 - (iv) to take the ship to any other destination specified by the officer in agreement with the master.
- (3) An authorised officer may take such steps as appear necessary to secure compliance with a request under paragraph (2)(b) where—
- (a) the master fails to comply with the request, or
 - (b) the officer reasonably suspects that the request may not be complied with.
- (4) Those steps may include in particular—
- (a) entering, or authorising entry upon, the ship, and
 - (b) using, or authorising the use of, reasonable force.
- (5) A master or owner of a ship (“P”) commits an offence if P—
- (a) fails to comply with a direction under paragraph (2)(a),
 - (b) fails without reasonable excuse to comply with a request under paragraph (1)(b) or (2),
 - (c) knowingly or recklessly provides information or a document which is false in a material particular in response to a request under paragraph (1)(b), or
 - (d) wilfully obstructs an authorised officer, or a person acting under the officer’s authority, in the exercise of any power conferred by this article.
- (6) An authorised officer, or a person acting under the officer’s authority, must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this article.
- (7) In this article “authorised officer” means—
- (a) a commissioned naval or military officer;
 - (b) a British consular officer;
 - (c) a police or customs officer; or
 - (d) a person authorised by the Governor for the purpose of this article, whether generally or in a particular case.

Investigation etc. of suspected aircraft

22.—(1) Where an authorised person reasonably suspects that an aircraft has been, is being, or is about to be used in the commission of an offence under article 7(1)—

- (a) the person may (alone or assisted by persons under the authorised person’s authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;
- (b) the person may request the charterer, operator or commander of the aircraft to provide such information relating to the aircraft and its cargo and produce for inspection such documents and cargo as the person may specify; and
- (c) if the aircraft is in the Territory, the person may request the charterer, operator or commander to keep the aircraft and any of its cargo in the Territory until notified that the aircraft and its cargo may depart.

(2) An authorised person may take such steps as appear necessary to secure compliance with a request under paragraph (1)(c) where—

- (a) the charterer, operator or commander fails to comply with the request, or
- (b) the person reasonably suspects that the request may not be complied with.

(3) Those steps may include in particular—

- (a) entering, or authorising entry upon, the aircraft or any land;
- (b) detaining, or authorising the detention of, the aircraft and any of its cargo;
- (c) seizing any prohibited goods; and
- (d) using, or authorising the use of, reasonable force.

(4) A charterer, operator or commander of an aircraft (“P”) commits an offence if P—

- (a) fails without reasonable excuse to comply with a request under paragraph (1),
- (b) knowingly or recklessly provides information or a document which is false in a material particular in response to a request under paragraph (1)(b), or
- (c) wilfully obstructs an authorised person, or a person acting under that person’s authority, in the exercise of any power conferred by this article.

(5) An authorised person, or a person acting under that person’s authority, must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this article.

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

Investigation etc. of suspected vehicles

23.—(1) Where an authorised person reasonably suspects that a vehicle in the Territory has been, is being, or is about to be used in the commission of an offence under article 7(1)—

- (a) the person may (alone or assisted by persons under the authorised person’s authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;
- (b) the person may request the operator or driver of the vehicle to provide such information relating to the vehicle and any goods in the vehicle and produce for inspection such documents and goods as the person may specify; and
- (c) the person may request the operator or driver to keep the aircraft and any goods in the vehicle in the Territory until notified that the vehicle may depart.

(2) An authorised person may take such steps as appear necessary to secure compliance with a request under paragraph (1)(c) where—

- (a) the operator or driver fails to comply with the request, or
- (b) the person reasonably suspects that the request may not be complied with.

(3) Those steps may include in particular—

- (a) entering, or authorising entry of, the vehicle or upon any land;
- (b) detaining, or authorising the detention of, the vehicle and any goods in the vehicle;
- (c) seizing any prohibited goods; and
- (d) using, or authorising the use of, reasonable force.

(4) An operator or driver of a vehicle (“P”) commits an offence if P—

- (a) fails without reasonable excuse to comply with a request under paragraph (1),
- (b) knowingly or recklessly provides information or a document which is false in a material particular in response to a request under paragraph (1)(b), or
- (c) wilfully obstructs an authorised person, or a person acting under that person’s authority, in the exercise of any power conferred by this article.

(5) An authorised person, or a person acting under that person’s authority, must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this article.

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

Provisions supplementary to articles 21 to 23

24.—(1) A person (“P”) to whom this Order applies commits an offence if P discloses information given or a document produced by a person in accordance with a request made under article 21, 22 or 23 except—

- (a) to any person who would have been authorised to request the information or document under article 21, 22 or 23, or to any person holding or acting in any office under or in the service of—
 - (i) the Crown in right 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 States of Jersey, or
 - (v) the Government of any British overseas territory;

for the purpose of giving assistance or co-operation, 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;

- (b) with a view to instituting, 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) in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory, for an offence under a similar provision in any such jurisdiction;
- (c) 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;

(d) with the consent of a person, who in the person's own right, is entitled to the information, or to possession of the document, to any third party.

(2) In paragraph (1)(d) "in the person's own right" means not merely in the capacity as a servant or agent of another person.

(3) Any power conferred by article 21, 22 or 23 to request for inspection information, a document, cargo or goods includes a power to specify the form in which the information or document should be given, and the period within which the information, document, goods or cargo should be produced for inspection.

(4) This article and articles 21 to 23 are without prejudice to any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.