

**2012 No. 810**

**CUSTOMS**

**The Export Control (Syria Sanctions) and (Miscellaneous  
Amendments) Order 2012**

<i>Made</i>	- - - -	<i>8th March 2012</i>
<i>Laid before Parliament</i>		<i>14th March 2012</i>
<i>Coming into force</i>	- -	<i>5th April 2012</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) 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(b).

This Order makes provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for references to an Annex to Council Regulation (EU) No 36/2012(c) to be construed as references to that Annex as amended from time to time.

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

**Citation, Commencement and Application**

1.—(1) This Order may be cited as the Export Control (Syria Sanctions) and (Miscellaneous Amendments) Order 2012 and comes into force on 5th April 2012.

(2) 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.

**Revocations**

2. The legislation specified in column 1 of the Schedule is revoked to the extent specified in column 3 of that Schedule.

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(a) 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).  
(b) S.I. 1994/757, to which there are amendments not relevant to this Order.  
(c) OJ No L 16, 19.01.2012, p1.  
(d) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).  
(e) 2002 c.28.

## Interpretation

### 3.—(1) In this Order—

“the 1979 Act” means the Customs and Excise Management Act 1979(a);

“the 2008 Order” means the Export Control Order 2008(b);

“EU authorisation” means an authorisation or an approval granted under Articles 2(3), 3(2), 4(1) or 5 of the Syria Regulation;

“the Syria Regulation” means Council Regulation (EU) No 36/2012 at last amended by Council Regulation (EU) 168/2012(c) concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011(d), and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time.

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

## Offences related to equipment and goods and technology listed in Annex I or in the Common Military List of the European Union

4. A person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Syria Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 2(1)(a) (prohibition on sale etc. of equipment listed in Annex I to any person, entity or body in Syria, or for use in Syria);
- (b) Article 3(1)(a) (prohibition on provision of technical assistance related to the goods and technology listed in the Common Military List of the European Union to any person, entity or body in Syria, or for use in Syria);
- (c) Article 3(1)(b) (prohibition on provision of technical assistance or brokering services related to equipment listed in Annex I to any person, entity or body in Syria, or for use in Syria);
- (d) Article 3(1)(c) (prohibition on provision of financing or financial assistance related to goods and technology in the Common Military List of the European Union or listed in Annex I to any person, entity or body in Syria, or for use in Syria).

## Offences related to equipment, technology and software listed in Annex V

5. A person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Syria Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 4(1) (prohibition on sale etc. of items listed in Annex V to any person, entity or body in Syria, or for use in Syria);
- (b) Article 5(1)(a) (prohibition on provision of technical assistance, brokering services related to items listed in Annex V to any person, entity or body in Syria, or for use in Syria);
- (c) Article 5(1)(b) (prohibition on provision of financing or financial assistance related to items listed in Annex V to any person, entity or body in Syria, or for use in Syria);
- (d) Article 5(1)(c) (prohibition on provision of any telecommunications or internet monitoring or interception services of any kind to, or for the direct or indirect benefit of, the State of

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(a) 1979 c.2.

(b) S.I.2008/3231; relevant amending instruments are S.I. 2009/1305, S.I. 2009/1852, S.I. 2009/2151, S.I. 2009/2969 and S.I. 2010/2007.

(c) OJ No L 54, 28.02.2012, p1.

(d) OJ No L 121, 10.05.2011, p1.

Syria, its Government, its public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction).

#### **Offences related to crude oil and petroleum products listed in Annex IV**

6. A person who is knowingly concerned in an activity, other than the import of goods, prohibited by any of the following Articles of the Syria Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 6(b) (prohibition on purchase of crude oil or petroleum products which are located in or which originated in Syria);
- (b) Article 6(c) (prohibition on transporting crude oil or petroleum products if they originate in Syria, or are being exported from Syria to any other country);
- (c) Article 6(d) (prohibition on provision of financing or financial assistance related to the prohibitions set out in points (a) to (c) of Article 6 of the Syria Regulation).

#### **Offences related to key equipment and technology listed in Annex VI**

7. A person who is knowingly concerned in an activity, other than the export of equipment or technology, prohibited by any of the following Articles of the Syria Regulation with intent to evade the prohibitions in those Articles commits an offence and may be arrested—

- (a) Article 8(1) (prohibition on sale, etc. of equipment and technology listed in Annex VI to any Syrian person, entity or body, or for use in Syria);
- (b) Article 9(a) (prohibition on provision of technical assistance or brokering services related to equipment and technology listed in Annex VI, to any Syrian person, entity or body, or for use in Syria);
- (c) Article 9(b) (prohibition on provision of financing or financial assistance related to equipment and technology listed in Annex VI, to any Syrian person, entity or body, or for use in Syria).

#### **Offences related to the movement of Syrian bank notes and coins**

8. A person who is knowingly concerned in an activity, other than the export of goods, prohibited by Article 11 of the Syria Regulation (prohibition on sale, etc. of new Syrian denominated banknotes and coinage, printed or minted in the Union, to the Central Bank of Syria) with intent to evade the prohibitions in that Article commits an offence and may be arrested.

#### **Offences related to the movement of gold, precious metals and diamonds listed in Annex VIII**

9. A person who is knowingly concerned in an activity, other than the export or the import of goods, prohibited by any of the following Articles of the Syria Regulation with intent to evade the prohibitions in those Articles commits an offence and may be arrested—

- (a) Article 11a(1)(a) (prohibition on sale, etc. of gold, precious metals and diamonds, as listed in Annex VIII, to the Government of Syria, its public bodies, corporations and agencies, the Central Bank of Syria, any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them);
- (b) Article 11a(1)(b) (prohibition to purchase, etc. of gold, precious metals and diamonds, as listed in Annex VIII, from the Government of Syria, its public bodies, corporations and agencies, the Central Bank of Syria and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them);
- (c) Article 11a(1)(c) (prohibition on provision of technical assistance or brokering services or financing or financial assistance related to goods listed in Annex VIII to the Government of Syria, its public bodies, corporations and agencies, the Central Bank of Syria and any

person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them).

### **Offences related to equipment and technology listed in Annex VII**

**10.** A person who is knowingly concerned in an activity, other than the export of equipment or technology, prohibited by any of the following Articles of the Syria Regulation with intent to evade the prohibitions in those Articles commits an offence and may be arrested—

- (a) Article 12(1)(a) (prohibition on sale, etc. of equipment or technology listed in Annex VII to be used in the construction or installation in Syria of new power plants for electricity production);
- (b) Article 12(1)(b) (prohibition on the provision of financial or technical assistance in relation to any project referred to in point (a) of Article 12(1) of the Syria Regulation).

### **Offences related to restrictions on financing certain enterprises**

**11.** A person who is knowingly concerned in an activity prohibited by any of the following Articles of the Syria Regulation with intent to evade the prohibitions in those Articles commits an offence and may be arrested—

- (a) Article 13(1)(a) (prohibition on the granting of any financial loan or credit to any Syrian person, entity or body engaged in certain specified activities);
- (b) Article 13(1)(b) (prohibition on the acquisition or extension of a participation in any Syrian person, entity or body engaged in certain specified activities);
- (c) Article 13(1)(c) (prohibition on the creation of a joint venture with any Syrian person, entity or body engaged in certain specified activities).

### **Offences related to EU authorisations**

**12.—(1)** If, for the purpose of obtaining an EU authorisation, a 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,

that person commits an offence and may be arrested.

(2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished 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 of the EU authorisation 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.

### **Circumvention of prohibitions**

**13.—(1)** A person commits an offence and may be arrested who 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), 4(1), 8(1), 11, 11a(1)(a) or 12(1)(a) of the Syria Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence and may be arrested who 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 3(1)(a) to (c), 5(1)(a) to (c), 6(b) to (d), 9(a) or (b), 11a(1)(b) or (c), 12(1)(b) or 13(1)(a) to (c) of the Syria Regulation, or
- (b) to enable or facilitate the contravention of any such a prohibition.

## Penalties

**14.—**(1) A person guilty of an offence under articles 4(a) or 5(a), 7(a), 8, 9(a), 10(a) or 13(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 not exceeding the statutory maximum, 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(a), for “six months” in paragraph (1)(a)(i) substitute “twelve months”.

(3) A person guilty of an offence under articles 4(b) to (d), 5(b) to (d), 6, 7(b) or (c), 9(b) or (c), 10(b), 11, 12 or 13(2) of this Order is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three 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 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 prohibitions of exportation in Articles 2(1)(a), 4(1), 8(1), 11, 11a(1)(a) and 12(1)(a) of the Syria Regulation, sections 68(3)(b) and 170(3)(b) of the 1979 Act have the 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 prohibitions of importation in Articles 6(a) or 11(a)(1)(b) of the Syria Regulation, sections 50(4)(b) and 170(3)(b) (b) of the 1979 Act have the effect as if for the words “7 years” there were substituted the words “10 years”.

## Application of the 1979 Act

**15.—**(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 77A of the 1979 Act (provision as to information powers)(c) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Articles 2 to 5 of the Syria Regulation and accordingly references in section 77A of the 1979 Act to exportation shall be read as including any such activity.

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(a) 2003 c.44; at the date of this Order, section 154(1) had not been commenced.

(b) Sections 50(4)(b), 68(3)(b) and 170(3)(b) were amended by the Finance Act 1988 (c.39), section 12(1) and (6).

(c) Section 77A was inserted by the Finance Act 1987 (c. 16), section 10 and amended by Schedule 1, paragraph 7 of the Customs and Excise (Single Market etc.) Regulations 1992 (S.I. 1992/3095).

(3) Section 138 of the 1979 Act (provision as to arrest of persons)(a) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 145(b), 146(c), 146A(d), 147(e), 148, 150(f), 151(g), 152(h), 154(i), and 155(j) of the 1979 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) “The customs and excise Acts” and “assigned matter” have the same meanings as in section 1 of the 1979 Act.

## Review

16.—(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of articles 1 and 3 to 15 of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Syria Regulation and the measures taken to implement them in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Syria Regulation established by this Order and the measures taken to implement them,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) “Review period” means—

- (a) the period of five years beginning with the day on which this Order comes into force, and
- (b) subject to paragraph (5), each successive period of five years.

(5) If a report under this Order is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

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- (a) Section 138 was amended by the Police and Criminal Evidence Act 1984 (c. 60), sections 114(1) and 119, Schedule 6, paragraph 37 and Schedule 7, Part 1; by the Finance Act 1988 (c. 39), section 11; by the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341), article 90(1) and Schedule 6, paragraph 9; and by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 7, paragraph 54.
  - (b) Section 145 was amended by the Police and Criminal Evidence Act 1984, section 114(1); and by the Commissioners for Revenue and Customs Act 2005 (c. 11), Schedule 4, paragraphs 20 and 23.
  - (c) Section 146 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 22.
  - (d) Section 146A was inserted by the Finance Act 1989 (c. 26), section 16(1) and amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20 and 24.
  - (e) Section 147 was amended by the Magistrates’ Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 176; by the Criminal Justice Act 1982 (c. 48), sections 77 and 78, Schedule 14, paragraph 42 and Schedule 16; and by the Finance Act 1989, section 16(2).
  - (f) Section 150 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20 and 25.
  - (g) Section 151 was amended by the Magistrates’ Courts Act 1980, section 154 and Schedule 7, paragraph 177.
  - (h) Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, section 52, Schedule 4, paragraphs 20 and 26 and Schedule 5.
  - (i) Section 154 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 23.
  - (j) Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20, 21 and 27.

8th March 2012

## SCHEDULE

### REVOCATIONS

Article 2

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
Orders revoked	Reference	Extent of revocation
The Export Control (Uzbekistan) (Amendment) Order 2009	S.I. 2009/1174	The whole Order
The Export Control (Syria and Miscellaneous Amendments) Order 2011	S.I. 2011/1304	The whole Order except articles 8 and 9
The Export Control (Belarus) and (Syria Amendment) Order 2011	S.I. 2011/2010	Article 10

#### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision for the enforcement of certain restrictive measures specified in Council Regulation (EU) No 36/2012 (OJ L 16, 19.1.2012, p1), as last amended by Council Regulation (EU) No 168/2012, concerning restrictive measures in view of the situation in Syria and repealing Council Regulation (EU) 442/2011 (“the Syria Regulation”).

The Syria Regulation implements the sanctions imposed by Council Decision 2011/782/CFSP (OJ L 319, 2.12.2011, p56), as last amended by Council Decision 2012/122/CFSP, concerning restrictive measures against Syria and repealing Decision 2011/273/CFSP.

The measures include prohibitions on trade, technical assistance, financing, financial assistance or brokering of equipment which may be used for internal repression, goods and technology in the Common Military list of the European Union, telecommunications monitoring equipment for use by the Syrian regime, equipment and technology for the Syrian oil and gas industry, new Syrian denominated bank notes and coinage and restrictions on the trade in gold, precious metals and diamonds with the Central Bank of Syria. They also include prohibitions on the import, purchase, transport and financial assistance of Syrian crude oil or petroleum products and prohibitions on the participation in certain infrastructure projects and investment in such projects.

Article 2 revokes those provisions of the Export Control (Syria and Miscellaneous Amendments) Order 2011 (SI 2011/1304), which made provision for offences and penalties for contravention of the previous restrictive measures against Syria. In addition, it revokes the Export Control (Uzbekistan) (Amendment) Order 2009 (S.I. 2009/1174) which has become spent.

Articles 4 to 11 create offences for contravention of the provisions of the Syria Regulation referred to there. There are already offences relating to importation and exportation of prohibited goods in sections 50, 68 and 170 of the Customs and Excise Management Act 1979 (“the 1979 Act”) (1979 c. 2).

Article 12 supplements the provisions of the Syria Regulation that allow a competent authority to authorise or approve activities that are otherwise prohibited (i.e. Articles 2(3), 3(2), 4(1) and 5 of the Syria Regulation). Article 12(1) makes it an offence knowingly and recklessly to provide false information for the purpose of obtaining an authorisation or approval. Authorisations or approvals may be subject to requirements or conditions which continue even after the act authorised has been carried out. Article 12(3) makes it an offence to fail to comply with such continuing requirements or conditions unless they were imposed after the act was carried out or amended after that time in such a way as to give rise to non-compliance.

Article 13 provides that circumvention of the prohibitions in Articles 2 to 6, 8, 9 or 11 to 13 of the Syria Regulation is an offence.

Article 14 sets out the penalties relating to the offences in the Order, and makes some consequential modifications to the 1979 Act to ensure that the offences covered by that Act are subject to the same penalties as those in the Order.

Article 15 makes provision so that the ancillary provisions which apply to the enforcement of customs and excise legislation also apply to the enforcement of this Order.

Article 16 requires the Secretary of State to review the operation and effect of this Order and publish a report within five years after it comes into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.

A regulatory impact assessment has not been produced for this instrument as it has no or minimal impact on business, charities or voluntary bodies. A copy of the Explanatory Memorandum is published alongside the Order on [www.legislation.gov.uk](http://www.legislation.gov.uk). Further information is available from the Export Control Organisation, BIS, 1 Victoria Street, London SW1H 0ET and on BIS website ([www.bis.gov.uk](http://www.bis.gov.uk)).

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