EXPLANATORY MEMORANDUM TO

THE CHEMICAL WEAPONS (SANCTIONS) (OVERSEAS TERRITORIES) ORDER 2018

2018 No. 1361

1. Introduction

1.1 This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order gives effect in specified Overseas Territories to restrictive measures against the proliferation and use of chemical weapons, which were adopted by the Council of the European Union on 15 October 2018.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is not subject to parliamentary procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

4.1 The extent of this instrument is: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, the Falkland Islands, Montserrat, Pitcairn (including Henderson, Ducie and Oeno Islands), St Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia, the Turks and Caicos Islands and the Virgin Islands ("the Territories").

4.2 The application of this instrument is the Territories and:

(a) any person elsewhere who is a British citizen, a British overseas territories citizen, a British overseas citizen, a British subject, a British national (overseas) or a British protected person and is ordinarily resident in a Territory;

(b) a body incorporated or constituted under the law of a Territory; and

(c) any person onboard a ship or aircraft that is registered in a Territory.

5. European Convention on Human Rights

5.1 As the instrument is not subject to parliamentary procedure, no statement is required.

6. Legislative Context

6.1 This Order is made in exercise of statutory powers under the Saint Helena Act 1833, the British Settlements Acts 1887 and 1945, and the legislative power of the Royal prerogative.

6.2 The statutory and prerogative powers to legislate for the Territories to implement enforcement measures associated with the application of sanctions are applicable to the Territories as follows:

(i) the Saint Helena Act 1833 applies to St Helena;

(ii) the British Settlements Acts 1887 and 1945 are applicable to Ascension and Tristan da Cunha, British Antarctic Territory, the Falkland Islands, Pitcairn (including Henderson, Ducie and Oeno Islands), and South Georgia and the South Sandwich islands);

(iii) the prerogative legislative power is applicable to Anguilla, British Indian Ocean Territory, Cayman Islands, Montserrat, the Sovereign Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and the Virgin Islands.

7. Policy background

What is being done and why?

7.1 The use of chemical weapons under any circumstances is completely unacceptable and constitutes a security threat to us all. On 28 June 2018 the European Council called for the adoption as soon as possible of a new European Union regime of restrictive measures to address the proliferation and use of chemical weapons.

7.2 On 15 October 2018 the Council of the European Union adopted Council Decision (CFSP) 2018/1544 and Council Regulation (EU) 2018/1542 imposing restrictive measures against the proliferation and use of chemical weapons. These measures consist of targeted restrictive measures against persons who are responsible for, involved in or promote the proliferation and use of chemical weapons, as well as persons associated with them. For the purposes of the sanctions regime, chemical weapons means chemical weapons as defined in Article II of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed at Paris on 13 January 1993. The Convention can be found at https://www.opcw.org/chemical-weapons-convention.

7.3 The restrictive measures include an asset freeze, which requires that all funds and economic resources belonging to, owned, held or controlled by the designated person are frozen, and prohibits funds or economic resources from being made available directly or indirectly to or for the benefit of the designated person. As at the date of this memorandum, the Council has not yet subjected any persons to the measures.

7.4 There is no international or European law obligation to implement in the Territories restrictive measures adopted by the European Union. However, it is the policy of Her Majesty's Government to give effect to these measures in the Territories in order to make sanctions as effective as possible. In accordance with usual practice, this Order provides for the relevant criminal offences and enforcement powers in the Territories.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 As this is a new sanctions regime, there is no need for consolidation. The Foreign and Commonwealth Office will keep the need for consolidation under review.

10. Consultation outcome

10.1 The Territories have been consulted on the Order in draft.

11. Guidance

11.1 No guidance will be issued.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies in the United Kingdom.

12.2 There is no, or no significant, impact on the public sector in the United Kingdom.

12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses in the United Kingdom.

14. Monitoring & review

14.1 European Union measures are monitored and reviewed by the Member States of the European Union. This Order will be reviewed and amended as appropriate following any modifications to the sanctions regime by the European Union.

15. Contact

15.1 George Howe at the Foreign and Commonwealth Office Telephone: 0207 008 1585 or email: george.howe@fco.gov.uk can be contacted with any queries regarding the instrument.

15.2 Nicola Smith, Legal Counsellor at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rt Hon Sir Alan Duncan KCMG MP, Minister of State at the Foreign and Commonwealth Office, can confirm that this Explanatory Memorandum meets the required standard.