**EXPLANATORY MEMORANDUM TO**

**THE LIBYA (ASSET-FREEZING) (AMENDMENT) REGULATIONS 2013**

**2013 No. 2071**

**1.** This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the instrument

2.1 These Regulations amend the Libya (Asset-Freezing) Regulations 2011 ("the 2011 Regulations") which provide for enforcement of, and penalties for breaches, of EU financial sanctions in relation to Libya imposed by Council Regulation (EC) No. 204/2011 of 2 March 2011 concerning restrictive measures in view of the situation in Libya ("the first Council Regulation"). These Regulations implement Council Regulation (EU) No. 488/2013 of 27 May 2013 ("the amending Council Regulation"). So far as is relevant, the amending Council Regulation amends an existing exemption to the asset freezing provisions in the first Council Regulation to permit the crediting of funds to frozen accounts when payments are due under judicial, administrative or arbitral liens, judgments or decisions as referred to in Article 8(1) and (2) of the first Council Regulation.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

## 4. Legislative Context

4.1 These Regulations amend the Libya (Asset-Freezing) Regulations 2011. They reflect amendments made by the amending Council Regulation to Council Regulation (EC) No. 204/2011 on restrictive measures against Libya.

4.2 The Foreign and Commonwealth Office submitted an Explanatory Memorandum on a Joint Proposal for a Council Regulation amending Regulation (EU) No.204/2011 concerning restrictive measures in view of the situation in Libya for Parliamentary Scrutiny on 24 May 2013. The House of Commons European Scrutiny Committee cleared the document as "politically important" on 5 June 2013 (ESC 34931, 4th Report, Session 2013/14). The House of Lords Select Committee on the European Union cleared the document on 4 June 2013 at the Chairman's sift.

## 5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom and, outside the United Kingdom, to UK nationals and bodies incorporated in the UK.

## 6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

- What is being done and why

7.1 These Regulations amend the Libya (Asset-Freezing) Regulations 2011, which provide for penalties for breach of the asset freezing measures contained in the first Council Regulation, imposed in view of the situation in Libya. The Council Regulation has direct effect, and requires Member States to put in place effective, proportionate and dissuasive penalties for infringements of the Council Regulation.

7.2 On 22 January 2013 the Council of the European Union adopted Council Decision 2013/45/CFSP which, amongst other things, amended an existing asset-freezing exemption in the first Council Regulation, to allow funds to be credited to frozen accounts where payments are due under specified judicial, administrative or arbitral liens, judgments or decisions. The amending Council Regulation implements that prohibition by amending Council Regulation (EC) No. 204/2011.

7.3 These Regulations amend the 2011 Regulations to reflect the amendment of the existing crediting of frozen accounts exemption made by the amending Council Regulation.

- Consolidation

7.4 There are no plans to consolidate the relevant legislation.

## 8. Consultation outcome

8.1 No consultation has been carried out in relation to these Regulations.

## 9. Guidance

9.1 Guidance on the asset freezing and financial sanctions measures in relation to Iran is available on the GOV.UK website. The Treasury's Financial Sanctions Unit operates a free subscription email service alerting subscribers on changes to the asset freezing regime, and on other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing regime. A notice explaining the amending Council Regulation is available on the Treasury website and was emailed to subscribers.

## 10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible, because these Regulations do not themselves impose requirements, but only put in place penalties in relation to activities which are prohibited by the directly effective Council Regulation.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument, because any impact results from the amending Council Regulation rather than these Regulations which only provide for enforcement powers.

## 11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the Treasury work with the financial sector on the requirements for complying with the asset freezing and financial sanctions measures set out in the Council Regulation. The Treasury have provided detailed guidance to assist business in complying with these measures.

## 12. Monitoring & review

12.1 The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breach of the restrictions imposed by Council Regulation (EC) No. 204/2011 if it is amended or repealed.

## 13. Contact

Financial Sanctions at the Treasury Tel: 020 7270 5454 or email: FinancialSanctions@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.