EXPLANATORY MEMORANDUM TO

THE SYRIA (RESTRICTIVE MEASURES) (OVERSEAS TERRITORIES) (AMENDMENT) ORDER 2015

2015 No. 824

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 amends the Syria (Restrictive Measures) (Overseas Territories) Order 2012 (S.I. 2012/1755) ("the principal Order") to give effect to changes to sanctions against Syria decided by the European Council in Council Decision 2014/74/CFSP and Council Decision 2014/901/CFSP ("the 2014 Council Decisions"). It also updates and makes minor corrections to the principal Order.

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

3.1 None.

4. Legislative Context

4.1 The Order gives effect in the Overseas Territories to the 2014 Council Decisions, which amend Council Decision 2013/255/CFSP concerning restrictive measures against Syria.

4.2 The statutory and prerogative powers to legislate for the Overseas Territories to implement sanctions measures are applicable 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, the Turks and Caicos Islands and the Virgin Islands.

5. Territorial Extent and Application

5.1 This Order applies to the following territories: 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. Bermuda legislates separately to apply the EU sanctions. These measures are implemented in Gibraltar by Council Regulation (EU) No 36/2012 (as amended) and local legislation.

6. European Convention on Human Rights

6.1 As this Order is not subject to Parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The EU sanctions regime against Syria is implemented in the Union by Council Regulation (EU) No 36/2012 (as amended) ("the Council Regulation"), and is given effect in the Overseas Territories in the principal Order. It consists of an arms embargo and trade restrictions, an asset freeze in relation to designated persons, entities and bodies, and restrictions on financial services.

7.2 Following the 2014 Council Decisions, the Council Regulation was amended to:

(a) include new prohibitions in relation to the sale, supply, transfer or export of jet fuels and fuel additives to any person, entity or body in Syria or for use in Syria. It also includes new prohibitions in relation to the provision of financing or brokering services in relation to the sale, supply, transfer or export of jet fuels and fuel additives;

(b) include a new basis for derogating from the asset freeze to enable payments to the Organisation for the Prohibition of Chemical Weapons;

(c) include new prohibitions in relation to the circumvention of the sanctions; and

(d) include revised provision precluding the enforcement of certain claims under contracts which are affected by the sanctions.

7.3 This Order gives effect to these changes. The Order also updates the principal Order to include two further bases for derogating from the asset freeze, consistent with the Council Regulation. These relate to making funds or economic resources available for essential energy needs of the civilian population, and to enabling transfers of certain funds to, by or through the Commerical Bank of Syria related to payments for the purpose of meeting essential civilian needs.

7.4 In addition, the Order makes minor corrections to the drafting of the principal Order.

8. Consultation

8.1 The Overseas Territories were consulted on this Order in draft.

9. Guidance

9.1 No guidance will be issued.

10. Impact

10.1 There is no impact on business, charities or the voluntary sector in the United Kingdom.

10.2 There is no impact on the public sector in the United Kingdom.

10.3 An Impact Assessment has therefore not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business in the United Kingdom.

12. Monitoring and Review

12.1 EU sanctions are monitored and reviewed by Member States of the EU. Amendments will be made to this legislation following any further modifications to the sanctions regime by the Council of the European Union.

13. Contact

Louise Moreland at the Foreign and Commonwealth Office can answer queries regarding the instrument. Telephone: 020 7008 3124. Email: louise.moreland@fco.gsi.gov.uk