

**STANDARD FORM OF EXPLANATORY MEMORANDUM FOR EUROPEAN UNION
LEGISLATION AND DOCUMENTS**

Council Decision (CFSP) 2019/... amending Decision 2011/235/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Iran

Council Implementing Regulation (EU) 2019/...implementing Regulation (EU) No. 359/2011 concerning restrictive measures against certain persons, entities and bodies in view of the situation in Iran

Submitted by the Foreign and Commonwealth Office on 13 March 2019.

SUBJECT MATTER

1. The Council Decision and Council Implementing Regulation respectively amend and renew Council Decision 2011/235/CFSP and Council Implementing Regulation 359/2011. The Council agreed to extend restrictive measures, for another year, in the form of an EU-wide asset freeze and travel ban against 82 individuals and an asset freeze against one entity. The restrictive measures also include a prohibition on the export of equipment which could be used for internal repression.
2. The Council has also updated the Statements of Reasons for a number of the listings.

SCRUTINY HISTORY

3. An explanatory memorandum on this issue was last submitted for Parliamentary scrutiny on 24 March 2017. The House of Lords EU Select Committee cleared the item on 28 March 2017 at the Chairman's sift. The House of Commons European Scrutiny Committee cleared the item as "not legally or politically important" on 29 March 2017 (ESC 38609 & 38610, 37th Report, Session 2016/17).

MINISTERIAL RESPONSIBILITY

4. The Secretary of State for Foreign and Commonwealth Affairs is the Minister with overall responsibility for UK policy on the EU's Common Foreign and Security Policy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

5. The UK's Foreign Affairs policy is a reserved matter under the UK's devolution settlements and no devolved administration interests arise. The devolved administrations have therefore not been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

6.
 - i. Legal Basis: Article 29 of the Treaty of the European Union for the Council Decision and Article 12 of Regulation (EU) No 359/2011 for the Council Implementing Regulation.
 - ii. Voting Procedures: Unanimity for the Council Decision and Qualified Majority Voting for the Council Implementing Regulation.
 - iii. Impact on UK Law: The restrictions set out in Council Decision 2011/235/CFSP, which this Decision amends, are already in full force in the UK and therefore no changes to the domestic legislation are necessary. The Implementing Regulation implemented Regulation (EU) No 35, which continues to be directly applicable in the United Kingdom. In the UK, DIT administers and implements trade sanctions and HM Treasury administers and implements the asset freeze.
 - iv. Application to Gibraltar: Yes.
 - v. Fundamental rights analysis: The procedures for designating individuals under Council Decision 2011/235/CFSP and Council Regulation (EU) No 359/2011 which this Decision and Implementing Regulation amends (the Principal Decision and Regulation) are considered to be compliant with fundamental rights.

Both the Principal Decision and Regulation state that the Council shall provide designated persons and entities with an opportunity to present observations on the reasons for their listing. Where observations are submitted, the Council shall review its decision in the light of those observations and inform the person or entity concerned accordingly. In addition, the measures will be kept under review.

Provision is made under the Principal Decision and Regulation for competent authorities of Member States to authorise the release of frozen funds where necessary in certain circumstances, for example, to satisfy the basic needs of listed persons or their dependents and where necessary for extraordinary expenses. Decisions by competent authorities of Member States in this regard would be subject to challenge in Member States' courts. In addition, the Principal Decision provides for Member States to grant exemptions from the travel ban where travel is justified, inter alia, on the basis of urgent humanitarian need.

The Principal Decision and Regulation respect fundamental rights, notably the right to an effective remedy and to a fair trial and the right to the protection of personal data. Furthermore, the Courts of the European Union must, in

accordance with the powers conferred on them, ensure the review of the lawfulness of all European Union acts in respect of fundamental rights. Those fundamental rights include respect for the rights of the defence and the right to effective judicial protection.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

7. None.

SUBSIDIARITY

8. Action by the EU is appropriate to ensure the uniform application across the EU of the renewed sanctions measures concerning Iran.

POLICY IMPLICATIONS (including Exit implications where appropriate)

9. On 23 June 2016, the UK voted to leave the EU. On 29 March 2017, the Government triggered Article 50 of the TEU to begin the process of exit. Until 29 March 2019, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period, the Government will also continue to negotiate, implement, and apply EU legislation.

10. Iran's human rights record continues to be of serious concern to the UK, and the FCO has designated it as one of its Human Rights Priority Countries. The continued use of the death penalty, weak rule of law and restrictions on freedoms of expression, religion and belief are deeply worrying. Iran has recently experienced protests expressing frustration against the government, including allegations of corruption and the lack of political and social freedoms. Several women have also been arrested and detained for their protests against mandatory dress laws.

CONSULTATION

11. Not Applicable.

IMPACT ASSESSMENT

12. Not applicable.

FINANCIAL IMPLICATIONS

13. None.

TIMETABLE

14. The Council Decision and the Council Implementing Regulation are expected to be adopted on 8 April.

OTHER OBSERVATIONS

15. None.

A handwritten signature in black ink that reads "Alan Duncan". The signature is written in a cursive style with a large initial 'A' and a long, sweeping tail for the 'n'.

The Rt Hon Sir Alan Duncan MP
Minister for Europe and the Americas
Foreign and Commonwealth Office