L.N. 151 of 2017

United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2017

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United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2017

(Made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council)

1. United Nations Sanctions (Libya) Regulation 2011 amended

The United Nations Sanctions (Libya) Regulation 2011 (Cap. 537 sub. leg. AW) is amended as set out in sections 2 to 25.

2. Section 1 amended (interpretation)

(1) Section 1, definition of ***licence***—

Repeal

"15A(1)"

Substitute

"15B(1)".

(2) Section 1, English text, definition of ***person connected with Libya***, paragraph (a)—

Repeal

"Government of Libya"

Substitute

"Libyan Government".

(3) Section 1—

Repeal the definition of *Resolution 2146*

Substitute

"***Resolution 2146*** (《第2146號決議》) means Resolution 2146 (2014) adopted by the Security Council on 19 March 2014, as extended by Resolution 2362 (2017) adopted by the Security Council on 29 June 2017;".

(4) Section 1, Chinese text, definition of ***有關人士***, paragraph (a), before "行政長官"—

Add

"由".

(5) Section 1, Chinese text, definition of ***有關人士***, paragraph (b), after "有關實體"—

Add

"的人或實體".

(6) Section 1, Chinese text, definition of ***有關實體***, paragraph (a), before "行政長官"—

Add

"由".

(7) Section 1, Chinese text, definition of ***有關實體***, paragraph (b), after "有關實體"—

Add

"的人或實體".

(8) Section 1, Chinese text, definition of ***有關實體***, paragraph (c)—

Repeal

"的人士" (wherever appearing)

Substitute

"的人".

(9) Section 1—

Add in alphabetical order

"***Libyan Government*** (利比亞政府) means the Government of National Accord in Libya;

petroleum (石油) includes crude oil and refined petroleum products;".

3. Section 2 amended (prohibition against supply, sale or transfer of certain goods)

(1) Section 2(3)(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(2) Section 2(3)(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

(3) Section 2(4)(b), English text—

Repeal

"were or were to be"

Substitute

"were, or were to be,".

4. Section 3 amended (prohibition against carriage of certain goods)

(1) Section 3(5)(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(2) Section 3(5)(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

5. Sections 3E and 3F repealed

Sections 3E and 3F—

Repeal the sections.

6. Sections 3G and 3H added

Before section 4—

Add

"**3G. Prohibition against loading, transport or discharge of petroleum**

(1) This section applies to a ship—

(a) that is registered in the HKSAR; and

(b) that is designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(a) of the Resolution.

(2) Subject to section 3H, a ship must not be used to load, transport or discharge petroleum from Libya aboard the ship.

(3) If a ship is used in contravention of subsection (2), each of the following persons commits an offence—

(a) the charterer of the ship;

(b) the operator of the ship;

(c) the master of the ship.

(4) A person who commits an offence under subsection (3) is liable—

(a) on conviction on indictment—to a fine and to imprisonment for 2 years; or

(b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.

(5) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—

(a) that petroleum was aboard the ship; or

(b) that the petroleum aboard the ship was from Libya.

3H. Exceptions to prohibition under section 3G

(1) Section 3G does not apply if the loading, transport or discharge of petroleum is directed by the focal point, appointed under paragraph 3 of Resolution 2146, of the Libyan Government.

(2) Also, section 3G does not apply if the loading, transport or discharge of petroleum is exempted by the Committee under paragraph 12 of Resolution 2146.".

7. Section 4 amended (prohibition against provision of certain assistance or training)

(1) Section 4(3)(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(2) Section 4(3)(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

(3) Section 4(4)(a), English text—

Repeal

"was or was to be"

Substitute

"was, or was to be,".

8. Section 5 amended (prohibition against procurement of certain items by certain persons)

(1) Section 5(3)(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(2) Section 5(3)(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

9. Section 6 amended (prohibition against procurement of certain items using ships, aircraft or vehicles)

(1) Section 6(3)(a) and (c)—

Repeal

"HKSAR,"

Substitute

"HKSAR—".

(2) Section 6(3)(e)—

Repeal

"vehicle,"

Substitute

"vehicle—".

(3) Section 6(4)(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(4) Section 6(4)(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

10. Section 7 amended (prohibition against making available funds, etc. or dealing with funds, etc.)

(1) Section 7(3)(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(2) Section 7(3)(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

(3) Section 7(4)(a)(i), English text—

Repeal

"were or were to be"

Substitute

"were, or were to be,".

(4) Section 7(4)(b)(i), English text—

Repeal

"were or were to be"

Substitute

"were, or were to be,".

(5) Section 7(6), definition of ***deal with***, paragraph (b)—

Repeal

"resources,"

Substitute

"resources—".

11. Sections 7E and 7F repealed

Sections 7E and 7F—

Repeal the sections.

12. Sections 7G and 7H added

Before section 8—

Add

"**7G. Prohibition against engaging in certain financial transactions**

(1) This section applies to—

(a) a person acting in the HKSAR; and

(b) a person acting outside the HKSAR who is—

(i) both a Hong Kong permanent resident and a Chinese national; or

(ii) a body incorporated or constituted under the law of the HKSAR.

(2) Subject to section 7H, a person must not engage, directly or indirectly, in any financial transaction related to any petroleum from Libya aboard a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(d) of the Resolution.

(3) A person who contravenes subsection (2) commits an offence and is liable—

(a) on conviction on indictment—to a fine and to imprisonment for 2 years; or

(b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.

(4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe that the financial transaction concerned related to any petroleum from Libya aboard a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(d) of the Resolution.

(5) In this section—

financial transaction (金融交易) does not include the payment or acceptance of port dues payable under section 52 of the Shipping and Port Control Ordinance (Cap. 313) in the circumstances specified in section 10L(3).

7H. Exception to prohibition under section 7G

Section 7G does not apply if the engagement in the financial transaction concerned is exempted by the Committee under paragraph 12 of Resolution 2146.".

13. Section 9 amended (exceptions to prohibition against entry or transit by certain persons)

(1) Section 9(a)—

Repeal

"entry into or transit through the HKSAR"

Substitute

"entry or transit".

(2) Section 9(b), Chinese text—

Repeal

everything after "有關的"

Substitute

"入境或過境，是為履行某司法程序而需要的；".

(3) Section 9(c), Chinese text—

Repeal

"有關的指明人士在特區入境或經特區"

Substitute

"，有關的入境或".

(4) Section 9, Chinese text—

Repeal paragraph (d)

Substitute

"(d) 有關的入境或過境，是為促進利比亞的和平及穩定而需要的。".

14. Sections 10G, 10H and 10I repealed

Sections 10G, 10H and 10I—

Repeal the sections.

15. Sections 10J, 10K and 10L added

Before section 11—

Add

"**10J. Prohibition against provision of certain services to certain ships**

(1) This section applies to—

(a) a person acting in the HKSAR; and

(b) a person acting outside the HKSAR who is—

(i) both a Hong Kong permanent resident and a Chinese national; or

(ii) a body incorporated or constituted under the law of the HKSAR.

(2) Subject to section 10K, except under the authority of a licence granted under section 15B(1), a person must not provide, directly or indirectly, any specified services to a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(c) of the Resolution.

(3) A person who, without reasonable excuse, contravenes subsection (2) commits an offence and is liable—

(a) on conviction on indictment—to a fine and to imprisonment for 7 years; or

(b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.

(4) In this section—

specified services (指明服務), in relation to a ship, means the provision of any bunkering service to the ship or any of the following services—

(a) the provision of fuel to the ship;

(b) the provision of tools or equipment for shipboard maintenance;

(c) the provision of lubricants, chemicals, expendable parts, spare parts, supplies or any other requirements that are necessary for the safe operation of the ship;

(d) the servicing or repair of any part of the ship or any item referred to in paragraphs (b) and (c).

10K. Exception to prohibition under section 10J

Section 10J does not apply if the provision of the specified services concerned is exempted by the Committee under paragraph 12 of Resolution 2146.

10L. Prohibition against certain ships from entering waters of Hong Kong

(1) This section applies to a ship—

(a) that is outside the waters of Hong Kong; and

(b) that is designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(b) of the Resolution.

(2) Except in the circumstances specified in subsection (3), the Director of Marine must deny permission for the ship to enter the waters of Hong Kong.

(3) A ship to which this section applies may enter the waters of Hong Kong only—

(a) for the purpose of an inspection under section 19;

(b) in the case of an emergency;

(c) for the ship to return to Libya; or

(d) if the entry is allowed by the Committee under paragraph 12 of Resolution 2146.

(4) The charterer, operator or master of a ship to which permission is denied under subsection (2) must not cause the ship to enter the waters of Hong Kong.

(5) A charterer, operator or master of a ship who, without reasonable excuse, contravenes subsection (4) commits an offence and is liable—

(a) on conviction on indictment—to a fine and to imprisonment for 7 years; or

(b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.".

16. Section 11 amended (prohibition against certain aircraft taking off from, landing in etc. HKSAR)

(1) Section 11(4)(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(2) Section 11(4)(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

17. Section 14 amended (licence for provision of certain assistance or training)

Section 14(2)(d), English text—

Repeal

"Government of Libya"

Substitute

"Libyan Government".

18. Section 15 amended (licence for making available funds, etc. to certain persons or entities or dealing with funds, etc. of certain persons or entities)

(1) Section 15(2)(a), Chinese text—

Repeal subparagraph (ii)

Substitute

"(ii) 屬專用於支付與根據特區法律規定而提供的法律服務有關連的合理專業人員酬金，或償付與該服務有關連的已招致費用；或".

(2) Section 15(2A)(a), Chinese text—

Repeal subparagraph (ii)

Substitute

"(ii) 屬專用於支付與根據特區法律規定而提供的法律服務有關連的合理專業人員酬金，或償付與該服務有關連的已招致費用；或".

(3) Section 15(3)(e)(i), (ii) and (iii), English text—

Repeal

"Government of Libya" (wherever appearing)

Substitute

"Libyan Government".

19. Section 15A repealed (licence for provision of certain services to certain ships)

Section 15A—

Repeal the section.

20. Section 15B added

The Regulation—

Add

"**15B. Licence for provision of certain services to certain ships**

(1) If satisfied on application that any of the requirements in subsection (2) is met, the Chief Executive must grant a licence for the provision of specified services to a ship designated by the Committee under paragraph 11 of Resolution 2146 for the measures in paragraph 10(c) of the Resolution.

(2) The requirements are as follows—

(a) the provision of the specified services concerned is necessary for humanitarian purposes;

(b) the provision of the specified services concerned is necessary for the ship to return to Libya.

(3) In this section—

specified services (指明服務) has the meaning given by section 10J.".

21. Section 17 amended (provision of false information or documents for purpose of obtaining licences)

(1) Section 17(1)(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(2) Section 17(1)(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

(3) Section 17(2)(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(4) Section 17(2)(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

22. Section 19 amended (investigation of suspected ships)

Section 19(1) and (2)—

Repeal

"3E" (wherever appearing)

Substitute

"3G".

23. Section 36 amended (offences in relation to evasion of this Regulation)

(1) Section 36(a), English text—

Repeal

"on indictment to"

Substitute

"on indictment—to".

(2) Section 36(b), English text—

Repeal

"conviction to"

Substitute

"conviction—to".

24. Section 42 repealed (duration)

Section 42—

Repeal the section.

25. Section 43 added

At the end of Part 8—

Add

"**43. Duration**

The following provisions expire at midnight on 15 November 2018—

(a) the definitions of ***petroleum*** and ***Resolution 2146*** in section 1;

(b) sections 3G, 3H, 7G, 7H, 10J, 10K, 10L and 15B.".

Carrie LAM
Chief Executive

27 September 2017

Explanatory Note

This Regulation gives effect to certain decisions in Resolution 2362 (2017) adopted by the Security Council of the United Nations on 29 June 2017 by providing for the prohibition against—

(a) the loading, transport or discharge of petroleum from Libya aboard certain ships;

(b) engaging in any financial transaction related to any petroleum from Libya aboard certain ships;

(c) the provision of certain services to ships under certain circumstances; and

(d) certain ships from entering the waters of Hong Kong.