



Foreign &
Commonwealth
Office

***De Minimis* Self-Certification Form**

Title of Measure	The Global Human Rights Sanctions Regulations 2020	
Department	Foreign & Commonwealth Office	
Directorate	Sanctions Unit	
Lead Departmental Contacts	Diana Ward and Charlotte Nixon	
EU Exit – Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <i>[Double click to check box]</i>	Non-EU Exit Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <i>[Double click to check box]</i>	
Legislative / Non-legislative	Legislative	
Estimated NPV (if calculated)	N/A - Optional	
<u>Policy Overview</u>		
<p>The Sanctions and Anti-Money Laundering Act 2018 (“the Sanctions Act”) provides the domestic legal framework to enable the UK to implement UN, multilateral and autonomous sanctions regimes.</p> <p>The Global Human Rights Sanctions Regulations 2020 (“the Regulations”) are intended to enable the UK to champion human rights, good governance and the rule of law by using our leverage against those involved in serious violations and abuses of certain human rights. The Regulations will aim to deter and provide accountability for serious human rights violations or abuses. They will also demonstrate UK leadership and ambition on human rights, promote international respect for human rights, support specific FCO human rights-related priorities and create an opportunity for new areas of collective action on human rights.</p>		
<u>Options Appraisal</u>		
<p>The Government has considered two options:</p> <p>Option 1: Do nothing: Relying on existing powers to promote human rights, good governance and rule of law. These include bilateral tools such as political lobbying, public statements, human rights dialogues, project work and technical assistance, and multilateral engagement. It also includes relying on existing sanctions regimes which contain a human rights purpose, such as the Venezuela, Myanmar and Iran Human Rights sanctions regimes.</p> <p>Option 2: Create new secondary legislation: Making use of powers granted under the Sanctions Act to bring forward secondary legislation creating a Global Human Rights sanctions regime.</p> <p>Option 2 is the preferred option. Option 2 gives the UK discretion to impose sanctions in response to serious violations and abuses of human rights around the world. This also provides flexibility in cases where achieving the required multilateral consensus is time-consuming or unsuccessful. Option 2 will also allow us to work with international partners, including the US and Canada, who use sanctions to address human rights violations and abuses. This option enables the UK to demonstrate leadership and ambition on human rights values after we leave the EU, and the agility to respond autonomously to serious human rights violations wherever in the world they occur.</p>		

Direct Costs to Business

The Global Human Rights Sanctions Regulations will use the existing process for notifying businesses about sanctions and designated individuals, entities and organisations as laid out under the Sanctions Act. Therefore, as we do not believe changes to IT systems or administrative processes will be required, marginal costs for businesses to implement the Regulations are expected to be low.

However, there could be a small marginal increase in costs for businesses based on an increase in the number of listed individuals. For the purposes of our assessment, we assumed 100 additional individuals would be listed in a typical year under the Regulations vs. the “do nothing” scenario. This estimate, which has a high degree of uncertainty, is based on current plans to consider c.50 individuals for designation from the outset with an expected increase over time. We also assume, again based on current plans, that roughly 60% of listed individuals would already be designated under U.S. or Canadian human rights sanctions regimes. While there is a high degree of uncertainty around both estimates, they provide indicative guidance on costs. As there are currently approximately 2000 sanctions designations across existing EU and UN sanctions, an increase of 100 individuals constitutes a 5% increase in designations.

Based on these assumptions, direct costs to businesses are split into monetisable and non-monetisable costs as outlined below.

[Continued on the next page.]

Table 1. Monetisable direct costs to UK business

Type	Detail	Evidence/scale of potential impact	Estimated annual impact
Familiarisation & transition costs	Training staff	Expected to be negligible and form part of regular continuous professional development	Negligible
	Systems update to include new sanctioned individuals	Expected to be incorporated within existing systems and processes as designated persons will be included on consolidated list on gov.uk	Negligible
Costs of non-compliance	Changes to compliance processes	Expected to form part of existing compliance processes. Compliance costs may increase if there is significant divergence from future US and EU sanctions.	Negligible
	Office of Financial Sanctions Implementation (OFSI) can impose penalties for serious financial sanctions breaches of up to £1m or 50% of the breach, whichever is higher. OFSI sets the fine in line with what it views as reasonable and proportionate, based on OFSI's view of the seriousness of the case.	<p>In 2019, OFSI implemented monetary penalties totalling £160,000 across all sanctions regimes. So far in 2020, OFSI have imposed one further £20.47million monetary penalty. These are the first monetary penalties imposed under new OFSI powers and future penalties are likely to vary, given each will be dependent on a unique set of circumstances. Based on available information, FCO estimate an approximate 5% increase in the number of sanctioned persons^[1], suggesting a proportional 5% increase on known monetary penalties of 2019 & 2020.</p> <p>Taking all fines into account, totalling £20.63million, FCO estimate incremental costs of non-compliance from the Regulations of c.£1.03million – assuming the severity of the breaches remains similar. Taking each year separately, we would estimate an incremental annualised costs of non-compliance from the Regulations as between c£8k and c£1.02million. This could be considered as an average of c£515k. FCO notes however that fines could increase in future, requiring a re-review for future sanctions legislation. We also note that these costs will only be imposed on businesses should they fail to comply with the regulations, where a financial penalty is deemed appropriate.</p>	<p>Min-Max range: c£8k - c.£1.03m.</p> <p>Average: c£516k</p>
Opportunity costs	Travel bans	Estimated number of persons designated under GHR in a typical year: 100 Estimated average number of trips to UK foregone per year by designated individuals: 0.5 - 3 ¹	Min-Max range: c.£2k-£103k

¹ Without any designations having been made we cannot find evidence to support this assumption so have estimated a broad range to achieve a minimum and maximum range

		<p>Estimated average length of a visit to the UK in days: 4 - 14 days² Amount spent per individual per day: £80-£200³ Estimated cost of return flights to London: £200 - £1000⁴ - of which 62% of flights with UK carriers⁵ Estimated revenue per trip to UK: £443.74 - £3,418.71</p> <p>Revenue does not translate to a direct cost to businesses as businesses will retain an asset that can be resold to another individual (e.g. a seat on a plane, a hotel room). However, in an extreme case where we assume it is not possible to re-sell these assets, the total cost is estimated as:</p> <p>Estimated total forgone revenue per year: £22,187 - £1,025,612 Estimated profit margin: 10% Estimated net annualised costs to UK businesses: £2,218.71 - £102,561.22</p>	
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Non-monetisable direct costs to business

- **Asset freezes** (e.g. bank accounts, stocks and shares, property). As assets are frozen rather than seized, there may be some a small proportional increase in administrative and reporting costs (c. 5% - equivalent to the % increase in sanctions designations) on financial institutions of holding assets that cannot be monetised, as well as forgone commission on transactions that cannot take place (e.g. property sales). We cannot quantify these costs prior to listing, however we are under a statutory obligation to consider the likely significant effects of designation on a person and, as such, will attempt to ascertain what assets & funds might be impacted and take that information into account when listing decisions are made. On the other hand, UK businesses may see a reputational benefit from reduced likelihood of profiting from transactions conducted on behalf of those involved in serious human rights violations or abuses.
- **Asset flight** may see a small proportional increase (c.5% - equivalent to the % increase in sanctions designations) as a greater number of individuals/entities, believing they are at risk of sanctions, transfer assets outside UK jurisdiction to avoid them being frozen. However, again, businesses in the UK will see a reputational benefit from reduced likelihood of managing the assets of serious human rights violators and abusers.

An increase in **business' external legal costs and other professional services** will have a distributional impact, but will net to zero across the UK as a whole assuming legal and professional services firms engaged are UK-based.

² <https://www.visitbritain.org/inbound-tourism-trends> shows average of 7.02 nights per stay in 2018; we have chosen a range around this figure to achieve a minimum and maximum range

³ A range oriented around £102 average amount spent per tourist per day on visits to London in 2014 and 2015, adjusted upwards to account for inflation and likely higher disposable income among targeted individuals <https://www.statista.com/statistics/487696/average-tourist-spend-per-day-london-united-kingdom/>

⁴ We cannot find evidence to support this assumption so have estimated a broad range to achieve a minimum and maximum range

⁵ 2018 CAA data on inbound flights by nationality of carrier (https://www.caa.co.uk/uploadedFiles/CAA/Content/Standard_Content/Data_and_analysis/Datasets/Airport_stats/Airport_data_2018_annual/Table_04_1_Trans_Move_by_Type.pdf)

“Licensing” is when an application is made to undertake sanctioned activities, e.g. to conduct business with sanctioned individuals or entities. We do not expect any additional impact on businesses in relation to **licensing** procedures, though there could be a proportional increase in the number of licensing applications (c.5%).

Benefits for businesses

- As stated above, reduced reputational risk from association with serious human rights violators and abusers.

Deterring serious human rights violations and abuses will reduce barriers to institutional and economic development in countries where these sanctions could be applied – which, in the long-term, should increase opportunities for UK businesses, trade and prosperity.

Wider Impacts, Transfers and Benefits

In addition to the stated direct costs above, there will be some wider impacts and transfers resulting from the Regulations.

- **The UK’s reputation as a place to do business.** There will be a reputational cost resulting from higher risk and perceived compliance burden of doing business in the UK – particularly if there is over-compliance. These effects will likely last longer than the sanctions themselves. However the cost will be offset by enhancing the UK’s reputation as a ‘clean’ place to do business. Businesses’ reputational risk will be reduced by divesting from relationships with individuals and entities associated with serious human rights abuses.
- **Retaliatory measures.** The UK could incur costs from retaliation such as bilateral measures and litigation. These costs are unquantifiable as they depend on how sanctions are interpreted by third parties, foreign policy and unpredictable future events.
- **Public sector.** There will be increased costs to the public sector. We estimate an increase in personnel equivalent to approximately 2 full-time employees (FTEs) at C4 grade, 0.53x D6 (split across two individuals in different teams – 0.33x and 0.2x) and 0.05x D7. The marginal cost of 1x C4 is estimated at £52,634⁶⁶ per annum incl. salary, pension, tech, office space and other marginal costs. The marginal cost of 1x D6 is estimated at £83,570 per annum incl. salary, pension, tech, office space and other marginal costs. The marginal cost of 1x D7 is estimated at £98,853 per annum incl. salary, pension, tech, office space and other marginal costs. Therefore, the total cost of 2x FTEs at C4, 0.53x FTEs at D6 and 0.05x FTEs at D7 is £105,268 + £44,292 + £4,943 = £154,503 per annum. We expect no increase in monitoring & evaluation costs within OFSI (HM Treasury) as these will be absorbed within existing processes.
- **Promoting global peace, security and economic development.** Serious human rights violations and abuses lead to unstable and less prosperous societies by perpetuating violent conflict, weakening institutions and undermining the rule of law. Discouraging such conduct will help facilitate conditions conducive for global peace, security and economic development. The UK will benefit from a more secure, prosperous world.

Justification for de minimis self-certification

We have opted for a de minimis self-certification as the costs to UK businesses of the Regulations are expected to sit under the threshold of £5m per annum.

Impacts on Small Businesses

The Regulations apply in the UK. Anybody subject to a travel ban will be excluded from the UK and the asset-freezing provisions apply equally to all UK nationals anywhere in the world and all persons and firms in the UK. Although small firms are disproportionately impacted by regulatory burdens, they

⁶⁶ All salary estimates provided by FCO Finance Department

are already obliged to have processes in place to ensure compliance with existing sanctions regimes, including UK-specific designations of entities and individuals under the Terrorism and Terrorist Financing Act (TAFSA) 2010. As stated above, there will be no change to the way UK business, charities and voluntary bodies are notified of sanctions designations and we believe no changes to IT systems or administrative processes will be required.

Small businesses could incur new familiarisation, compliance and legal costs due to these Regulations. If previously operating in jurisdictions not subject to a geographic sanctions regime, designating persons from that jurisdiction under the Global Human Rights Sanctions Regulations 2020 will increase their risk of non-compliance.

There is also a risk some small businesses may choose to over-comply and de-risk by withdrawing from some jurisdictions altogether.

Family Test

To ensure the Government fulfils its human rights obligations and to support the policy goals of this sanctions regime, the Regulations provide for the Secretary of State to grant licences that permit certain otherwise prohibited activities. For example, licences enabling individuals to pay for their essential needs or reasonable and essential legal fees. Exceptions to prohibitions that would not require a licence are set out in the Regulations.

Public Sector Equality Duty (PSED) Test

Separate PSED document being prepared for agreement by the Minister on The Global Human Rights Sanctions Regulations 2020.

Politically sensitive?

There has been strong cross-party support for the UK to bring an autonomous human rights sanctions regime into force. This interest, and the breadth of human rights matters that are relevant to the sanctions regime, means it is likely to be subject to significant scrutiny.

Text for Explanatory Memorandum

Please refer to the Explanatory Memorandum which is published alongside the Regulations on the legislation.gov.uk website.

Impacts

The Foreign and Commonwealth Office (FCO) have looked at the impacts of this secondary legislation to estimate costs to UK businesses and wider impacts resulting from these Regulations. We have estimated the costs to be beneath the threshold of £5m per annum for a full impact assessment, with costs resulting primarily from a small increase in the number of sanctions listings.

UK businesses must already comply with sanctions against the individuals and entities appearing on a regularly-updated gov.uk list. The process for notifying businesses about sanctions and designated persons remains unchanged, so we do not expect significant changes to IT systems or administrative changes. Therefore, costs are limited to: familiarisation costs, costs of non-compliance, opportunity costs of travel bans and asset freezes, and costs relating to compliance, legal advice and other professional services.

Fully quantifying costs is not possible as the UK's use of sanctions will depend on future events and ministerial decisions, however our best estimate is that they sit below the £5million threshold.

We assess that there would not be a significant impact on the private or voluntary sector with this new sanctions regime, as there is already a business burden that is applicable to UK business, charities and voluntary bodies with regard to sanctions regimes. There is no significant impact on the public sector.

Review Provision

Statutory Review Provision	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Non-Statutory Review Provision	Yes <input type="checkbox"/> No <input type="checkbox"/>
Ministerial Statement	Yes <input type="checkbox"/> No <input type="checkbox"/>
Review period (if applicable)	1 Year months

Senior Policy Sign off: Kate Johnston Date: 9 June 2020

Senior Analyst sign off: Tom Strachan Date: 9 June 2020