

**THE COUNTER-TERRORISM (INTERNATIONAL SANCTIONS) (EU EXIT)  
REGULATIONS 2019**

**REPORT UNDER SECTION 2(4) OF THE SANCTIONS AND ANTI-MONEY  
LAUNDERING ACT 2018**

**Introduction**

1. This is a report under section 2(4) of the Sanctions and Anti-Money Laundering Act 2018 (“the Act”) in relation to the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019. Section 2(4) requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 of the Act considers that the carrying out of the discretionary purpose of the regulations meets one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Act;<sup>i</sup> why the Minister considers that there are good reasons to pursue that purpose; and why the Minister considers that the imposition of sanctions is a reasonable course of action for that purpose.
2. Sanctions will continue to contribute to the UK’s efforts to “defend the rules-based international order”. The UK will continue to be a global leader on sanctions, based on the smart, targeted use of sanctions, as part of wider political and diplomatic strategies. The UK will enhance its leadership role in developing robust evidence to support sanctions regimes and designations – for national and multilateral sanctions. At the international level, the UK will continue to seek multilateral cooperation on sanctions in response to shared threats, given that a collective approach to sanctions achieves the greatest impact.
3. The Act allows the UK to take a range of actions against those reasonably suspected of, for example, preventing or undermining the resolution of armed conflicts, committing gross human rights violations, and to promote compliance with international humanitarian law or respect for human rights.
4. The Act enables Regulations to be made under section 1(1)(a) for the purpose of compliance with a United Nations (UN) obligation. No section 2(4) report is required in relation to such a purpose. Acting under Chapter VII of the UN Charter, the UN Security Council (UNSC) may impose sanctions where it has determined the existence of a threat to international peace and security. The UN Security Council adopts the regime through a UN Security Council Resolution (UNSCR). UNSCRs set out the parameters of the sanctions to be imposed, including the types of sanctions measures, any exemptions, and listing criteria; designations are usually made on the face of a UNSCR or by a Sanctions Committee (a sub-committee of the Security Council) established under the relevant UNSCR. All UN member states are obliged as a matter of international law to implement UN sanctions. The UK and other EU Member States currently meet this obligation by transposing all UN sanctions into EU law. Going forward, the UK will meet this obligation by making regulations under the Sanctions Act.
5. UNSCR 1373 was established in 2001 in response to September 11 attacks in the United States. The aim of UNSCR 1373 is to bolster international frameworks to combat threats to international peace and security caused by terrorist acts. Under UN Resolution 1373 the UK, as a UN Member State, is obliged to prevent the financing of terrorist acts, including the freezing of funds and economic resources of persons who commit or attempt to commit terrorist acts or participate in or facilitate in such acts, and prohibit their nationals and those within their

territories from making funds, financial services or economic resources available to such persons. UNSCR 1373 does not designate or list persons to impose sanctions upon, this is left to UN Members States to do.

6. The EU implemented the obligations under UNSCR 1373 through Council Common Position of 27 December 2001 (CP931). In 2016 the EU also established an autonomous regime in respect of (ISIL (Da'esh and Al-Qaida) ("EU autonomous AQ/Da'esh regime") through Council Regulation (EU) 2016/1686<sup>ii</sup>. The EU autonomous AQ/Da'esh regime supplements the UN AQ/Da'esh regime.
7. As demonstrated in the preambles to the EU legislation establishing CP931 and the EU autonomous AQ/Da'esh regimes, the regimes were established because terrorism is a real challenge to the world and to Europe, and that the fight against terrorism is a priority objective of the EU. The sanctions imposed by these regimes target persons, groups or entities involved in terrorist acts, or associated with terrorists. The UK played a significant role in the development of both EU sanctions regimes, and continues to play an active role in supporting the EU's work on counter-terrorism sanctions and the designations imposed under the regimes. The Counter-Terrorism International (Sanctions) (EU Exit) Regulations 2019 ("the Regulations") are intended to enable the UK to continue to impose existing counter-terrorism sanctions, after leaving the EU. The Regulations will also enable the UK to impose autonomous counter-terrorism sanctions against international terrorists and terrorist organisations as well as meeting its obligations under UNSCR 1373.

#### **Purposes and reasons for pursuing the purposes**

8. The discretionary purpose of the sanctions regime, as set out in regulation 4 of the Regulations, is furthering the prevention of terrorism in the United Kingdom or elsewhere, otherwise than by compliance with UN obligations.
9. These Regulations will enable the UK to impose sanctions on any person who is or has been involved in terrorist activity, including those who are, or have been, associated with those involved in terrorist activity. The Regulations provide further detail about being involved in terrorist activity, which includes, but is not limited to, being responsible for, engaging in or providing support for, the commission, preparation or instigation of acts of terrorism.
10. Carrying out these this purpose meets one or more of the conditions set out in section 1(2) of the Act. In particular, this purpose would fall within paragraph (a), in that it would further the prevention of terrorism, in the United Kingdom or elsewhere. Counter-terrorism sanctions can also help promote international peace and security, and national security. Terrorists continue to operate in the UK and internationally and the UK continues to lead efforts to counter-terrorism by imposing sanctions on individuals or entities involved, thus constraining their ability to commit acts of terrorism, encouraging a change in their future behaviour, signalling the UK's disapproval of terrorism and providing support for international partners facing terrorist threats.
11. There are good reasons for pursuing the discretionary purpose of these Regulations, namely to further the prevention of terrorism both in the UK and globally. As noted in a 2018 report by the United Nations Secretary General,<sup>1</sup> the frequency, deadliness and geographical reach of acts

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<sup>1</sup> [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/72/840](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/72/840)

of terrorism have grown rapidly and evolved into an unprecedented threat to international peace, security and development. Given the cross-border nature of terrorist financing, recruitment and the planning of terrorist acts, it is important to have a coordinated, collective response to this global threat. Sanctions form one part of this coordinated response. The UK remains committed to increasing national capabilities and capabilities of key international partners to disrupt terrorist activity, and reduce the will and the ability of terrorist groups and individuals to carry out attacks. This is set out further in the UK's CONTEST<sup>2</sup> strategy, which aims to reduce the risk to the UK and our interests overseas from terrorism.

12. Counter-terrorism sanctions are a practical weapon in the disruption of terrorism. Targeted sanctions constrain terrorists' ability to travel, access funds and receive weapons. This makes it more difficult for those involved in terrorist activity to access material to prepare or commit terrorist acts, and more difficult to travel for the purpose of facilitating terrorist activity. This restricts terrorists' ability to create instability and conflict in their geographic areas of operations, and globally. The sanctions under these Regulations target multiple elements of the terrorist infrastructure, ranging from foreign terrorist fighters to international money service businesses and terrorist financiers. This helps mitigate the risk of the disbursement of funds and weapons which could be used to benefit terrorists or facilitate terrorist activities.
13. By freezing assets, restricting travel and preventing access to arms and related material, the UK can put pressure on terrorists, and those involved in terrorism, and encourage them to change their behaviour and to abandon their adherence to violent ideology.
14. The ability to designate persons, groups and entities allows the UK to support international partners in their counter-terrorism efforts. It also allows for enhanced bilateral cooperation, and for information and intelligence sharing with international partners. Sanctions also act as an important signal of common resolve against terrorism as a whole.

#### **Why sanctions are a reasonable course of action**

15. The imposition of prohibitions and requirements of the kind imposed by these Regulations is a reasonable course of action for the purpose of furthering the prevention of terrorism in the UK and elsewhere.
16. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. HMG believes sanctions can be an effective foreign policy tool as one part of a broader foreign policy strategy for a country or thematic issue, and are appropriate to the purposes they are intending to achieve.
17. The efforts by the international community to counter the threat posed by terrorism mean that putting sanctions in place is a reasonable measure to take as part of this effort. Sanctions play a part in preventing terrorists from obtaining the means of carrying out terrorist acts by restricting access to assets, financial resources, military goods and technology and preventing travel and as such are an effective means of countering terrorism.
18. The measures that may be imposed on a person designated under these Regulations include financial, immigration and trade sanctions. This increases the provisions currently in place

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<sup>2</sup> <https://www.gov.uk/government/publications/counter-terrorism-strategy-contest>

under CP931 by introducing immigration and trade sanctions, and increases the financial sanctions currently in place under the EU autonomous AQ/Da'esh regime by also including a prohibition on financial services. These regulations harmonise the sanctions measures available in respect of those currently listed under CP931 and the EU autonomous AQ/Da'esh regimes. Harmonising the potential sanctions measures available to combat the threat posed by terrorism is appropriate with regards to the purposes of this regime, and is consistent with the UK's counter-terrorism policy.

19. Financial sanctions consist of an asset freeze (including a restriction on providing funds and economic resources) and a ban on the provision of financial services or assistance. and are appropriate to combat international terrorist financing and to restrict the ability of terrorists to operate.
20. Immigration sanctions consist of a travel ban on individuals and are appropriate because the inability to travel to the UK, or to travel from or into the relevant territory<sup>3</sup>, will constrain terrorist actors and/or disrupt terrorist activities.
21. Trade sanctions consist of prohibitions on providing to or for the benefit of a designated person, military goods or military technology, technical assistance, brokering services and financial services related to military goods and military technology or enabling or facilitating armed hostilities. These are appropriate because the effect of these sanctions is to directly constrain potential terrorist attacks.. For example, by preventing terrorists from obtaining firearms, ammunition, explosive devices or other weapons, these Regulations constrain the ability of terrorist actors to commit acts of violence or to terrorise civilians.

Financial, trade and immigration restrictions can only be imposed upon individuals and entities who meet the criteria set out in the Regulations, namely that there are reasonable grounds to suspect that the person is, or has been, involved in terrorist activity, and that their designation is appropriate having regard to the purposes of the regime and the likely significant effects of the designation on that person. The intention is to constrain terrorist actors from their objectives by restricting their ability to travel and access funding and arms. Additionally, the restrictions send a strong message to designated persons and to the perpetrators of terrorist activity that the UK and international community disapprove of terrorism. Applying restrictions to those who have been involved in terrorist activity is intended to both directly and indirectly bring about behavioural change and therefore to further the prevention of terrorism. The Regulations allow for directions to be issued in respect of exceptions to the travel ban by the Secretary of State, and also provides for the financial sanctions to be subject to certain exceptions and a licensing framework. There are some exceptions in respect of trade sanctions but no licences. The exceptions and licensing provisions support the reasonableness of imposing these sanctions on designated persons, as they can be used, where appropriate, to mitigate negative or counter-productive impacts.

22. Overall, the measures listed above help to fulfil the purpose of preventing terrorism, by making it harder for individuals and entities designated to operate, thereby contributing to reducing the risk from terrorist plots and successful attacks. This is in line with the UK's Counter-Terrorism strategy. The Regulations acknowledge that terrorist finance is not the only terrorist activity

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<sup>3</sup> "relevant territory" means the United Kingdom and the territory of the Member States of the European Union.

that the UK has an interest in preventing. It is appropriate with regards to the purposes of this regime (furthering the prevention of global terrorism) to also include prohibitions on travel (individuals) and prohibitions on providing military goods or military technology, or assistance relating to military goods or military technology. The prohibitions in these Regulations allow the UK to demonstrate action against terrorists and terrorist groups, signalling a commitment to the prevention of global terrorism.

23. These sanctions are not an end in themselves. They are one element of a broader strategy in the fight against terrorism. The UK is combining sanctions with lobbying through international frameworks, coordinating with Security Agencies, supporting UN resolutions and supporting the UN Special Rapporteur on Terrorism. The FCO will continue to coordinate with international partners, including supporting international efforts to combat the threat posed by terrorism and giving effect to our obligations under UNSCR 1373. The UK Government will continue to coordinate with international partners on the future of the regime. The Regulations will be reviewed triennially. There will be monitoring and evaluation with input from relevant UK Missions, Security Agencies and regional experts to monitor the impact of sanctions. Under section 31 of the Act the Secretary of State must appoint a person to review the operation of the asset-freeze provisions in these Regulations.
24. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information, the reporting of information by relevant firms, and the holding of records. These kinds of prohibitions and requirements ensure that certain information is appropriately held by those involved with the operation of the sanctions regime, and that certain information is provided to authorities, and ensure that certain sensitive information is treated securely. These kinds of prohibitions and requirements enable the government to properly operate and enforce the sanctions regime, and therefore their imposition is also considered a reasonable course of action for the purposes of the Regulations.

### **Conclusions**

25. The discretionary purposes of these Regulations are to further the prevention of terrorism in the UK or elsewhere, otherwise than by compliance with the relevant UN obligations. For the reasons set out in this report, carrying out those purposes meets one of the conditions in section 1(2) of the Act. As set out in this report, there are good reasons for pursuing those purposes, and the imposition of the kinds of prohibitions and requirements imposed by these Regulations for those purposes is a reasonable course of action for those purposes.

**The Rt Hon Sir Alan Duncan MP KCMG**

**Minister of State for Europe and the Americas, Foreign and Commonwealth Office, on behalf of  
the Secretary of State for Foreign and Commonwealth Affairs**

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<sup>i</sup> Section 1(2) states:

*“A purpose is within this subsection if the appropriate Minister making the regulations considers that carrying out that purpose would –*

- a) further the prevention of terrorism, in the United Kingdom or elsewhere,*
- b) be in the interests of national security,*
- c) be in the interests of international peace and security,*
- d) further a foreign policy objective of the government of the United Kingdom,*
- e) promote the resolution of armed conflicts or the protection of civilians in conflict zones,*
- f) provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote -*
  - (i) compliance with international human rights law, or*
  - (ii) respect for human rights,*
- g) promote compliance with international humanitarian law,*
- h) contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or*
- i) promote respect for democracy, the rules of law and good governance.”*

<sup>ii</sup> *And the corresponding Council Decision (CFSP) 2016/1693*