
STATUTORY INSTRUMENTS

2023 No. 616

The Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2023

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2023.

(2) These Regulations come into force on 9th June 2023.

Amendments to the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019

2. The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019(1) are amended as set out in regulations 3 to 22.

Amendment to regulation 2 (interpretation)

3. In regulation 2(1), after the definition of “humanitarian assistance activity” insert—
““OFCOM” means the Office of Communications;”.

PART 2

Designation

Amendments to regulation 5 (designation of persons)

4. In regulation 5—

(a) in paragraph (1), after sub-paragraph (c) insert—

“(ca) regulation 27P (internet services);”;

(b) in paragraph (1A), after sub-paragraph (c) insert—

“(ca) regulation 27P (internet services);”.

Amendments to regulation 6 (criteria: meaning of “involved person”)

5. In regulation 6—

(a) in paragraph (3A)—

(1) [S.I. 2019/600](#), as amended by [S.I. 2020/590](#); [S.I. 2020/951](#); [S.I. 2021/1146](#); [S.I. 2022/748](#); [S.I. 2022/500](#) (C. 18); [S.I. 2022/818](#); [S.I. 2023/149](#); and by the Sentencing Act 2020 (c. 17).

- (i) in sub-paragraph (c), after “Belarus,” omit “or”;
- (ii) in sub-paragraph (d)(ii), after “sub-paragraph (b) or (c)” for “.” substitute “,”;
- (iii) after sub-paragraph (d), insert—
 - “(e) holding the right, directly or indirectly, to nominate at least one director (whether executive or non-executive), trustee or equivalent of—
 - (i) a Government of Belarus-affiliated entity, or
 - (ii) a person, other than an individual, which falls within sub-paragraph (b) or (c).”;
- (b) after paragraph (3A), insert—

“(3B) For the purposes of this regulation, a person is involved in “conduct destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine” or “obtaining a benefit from or supporting the Government of Belarus through carrying on a relevant business activity” if they work for, or are affiliated to, the Government of Belarus, as—

 - (a) an aide or adviser to the President of Belarus;
 - (b) a head or deputy head of any public body, service or committee subordinate to the President of Belarus or the Council of Ministers of the Republic of Belarus, including the Administration of the President of the Republic of Belarus;
 - (c) a member of the Security Council of Belarus;
 - (d) a Prime Minister, First Deputy Prime Minister or Deputy Prime Minister of Belarus;
 - (e) a Minister or Deputy Minister of any Ministry of Belarus;
 - (f) a Chairperson or member of the Board of Directors of the National Bank of the Republic of Belarus;
 - (g) a head or deputy head of the Minsk City Executive Committee or any Regional Executive Committee;
 - (h) a head or deputy head of any other public body, committee or agency of the Government of Belarus;
 - (i) a member of the armed forces or law-enforcement organs of Belarus holding a rank of Lieutenant-Colonel, or equivalent, or higher;
 - (j) a member of the Belarussian security and intelligence services of the rank of Lieutenant-Colonel, or equivalent, or higher; or
 - (k) a director or manager, or equivalent position or higher, of a Government of Belarus-affiliated entity.

(3C) In paragraph (2)(d), being “associated with” a person includes—

 - (a) obtaining a financial benefit or other material benefit from that person;
 - (b) being an immediate family member of that person.”;
- (c) in paragraph (4), after the definition of “Government of Belarus-affiliated entity”, insert—

““immediate family member” means—

 - (a) a wife or husband;
 - (b) a civil partner;
 - (c) a parent or step-parent;
 - (d) a child or step-child;

- (e) a sibling or step-sibling;
- (f) a niece or nephew;
- (g) an aunt or uncle;
- (h) a grandparent;
- (i) a grandchild;”.

PART 3

Financial restrictions

Amendment of regulation 15A (dealing with transferable securities or money-market instruments)

6. In regulation 15A—
- (a) in paragraph (2B), for “by a relevant person” substitute—
“by—
 - (a) a relevant person;
 - (b) a person, other than an individual, acting on behalf or upon the direction of a person falling within any of sub-paragraphs (a) to (c) of the definition of relevant person in regulation 15D(1)”;
 - (b) in paragraph (2C)—
 - (i) in sub-paragraph (b), after “sub-paragraph (a)” for “.” substitute “; or”;
 - (ii) after sub-paragraph (b) insert—
 - “(c) a person, other than an individual, acting on behalf or at the direction of a person falling within sub-paragraph (a) or sub-paragraph (b).”.

PART 4

Trade sanctions

Amendments to regulation 20 (interpretation of other expressions used in this Part)

7. In regulation 20—
- (a) in paragraph (3)—
 - (i) in the definition of “transfer”, after “Schedule 1 to the Act” for “.” substitute “;”;
 - (ii) insert the following definitions in the appropriate places—
 - ““banknotes” means—
 - (a) sterling denominated banknotes issued by the Bank of England and banks in Scotland and Northern Ireland, and
 - (b) banknotes denominated in any official currency of the European Union;”;
 - ““cement” has the meaning given to it in paragraph 2 of Schedule 2J;”;
 - ““chemical and biological weapons-related goods” means—
 - (a) any thing specified in Part 2 of Schedule 2H, other than chemical and biological weapons-related technology (but see paragraph (4)), and

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(b) any tangible storage medium on which chemical and biological weapons-related technology is recorded or from which it can be derived;”;

““chemical and biological weapons-related technology” means any thing specified as technology or software in Part 2 of Schedule 2H, other than technology which is—

(a) the minimum necessary for—

(i) the installation, operation, maintenance and repair of any goods which are not subject to a prohibition under this Part, or

(ii) patent applications,

(b) in the public domain,

(c) a medical device, or

(d) used for basic scientific research;”;

““gold” has the meaning given to it in paragraph 3 of Schedule 2J;”;

““gold jewellery” has the meaning given to it in paragraph 4 of Schedule 2J;”;

““machinery-related goods” means any thing falling within Part 2 of Schedule 2I, other than—

(a) any thing which is machinery-related technology, or

(b) any thing for the time being specified in—

(i) Schedule 2 or 3 to the Export Control Order 2008⁽²⁾,

(ii) Annex I of the Dual-Use Regulation⁽³⁾, or

(iii) Schedule 2C (critical-industry goods and critical-industry technology);”;

““machinery-related technology” means any thing described in Part 2 of Schedule 2I as software or technology, other than any thing for the time being specified in—

(a) Schedule 3 to the Export Control Order 2008,

(b) Annex I of the Dual-Use Regulation, or

(c) Schedule 2C;”;

““relevant processed gold” means gold which—

(a) has been processed in a third country, and

(b) incorporates gold that, on or after 21st July 2022—

(i) originated in Belarus, and

(ii) has been exported from Belarus;”;

““rubber” has the meaning given to it in paragraph 5 of Schedule 2J;”;

““wood” has the meaning given to it in paragraph 6 of Schedule 2J.”;

(b) after regulation 20(3), insert—

(2) S.I. 2008/3231. Schedule 2 was substituted by S.I. 2017/85 and Schedule 3 was substituted by S.I. 2010/2007. Subsequent amendments to those Schedules were made by S.I. 2012/1910; S.I. 2014/1069; S.I. 2015/940; S.I. 2017/85; S.I. 2017/697; S.I. 2018/165; S.I. 2018/939; S.I. 2019/137; S.I. 2019/989; S.I. 2019/1159; S.I. 2020/1502; S.I. 2021/586; S.I. 2022/1042 and S.I. 2023/302. There are other instruments which amend other parts of the Order, which are not relevant to these Regulations.

(3) See regulation 2 of the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 for the definition of “the Dual-Use Regulation”.

“(3A) The definition of “chemical and biological weapons-related goods” does not apply to anything specified in Schedule 2H—

- (a) which is—
 - (i) a pharmaceutical formulation designed for human administration in the treatment of a medical condition, and
 - (ii) pre-packaged for distribution as a medicinal product, or
- (b) which is a medical device.”.

Amendments to Chapter 2 of Part 5 (exports to Belarus and related activities)

8. In Chapter 2 of Part 5—

(a) in regulation 21(1) (exports of goods to, or for use in, Belarus), for sub-paragraphs (a) to (i) substitute—

- “(a) banknotes;
- (b) chemical and biological weapons-related goods;
- (c) critical-industry goods;
- (d) dual-use goods;
- (e) interception and monitoring goods;
- (f) internal repression goods;
- (g) luxury goods;
- (h) machinery-related goods;
- (i) military goods;
- (j) oil refining goods;
- (k) quantum computing and advanced materials goods;
- (l) tobacco industry goods.”;

(b) in regulation 22(1) (supply and delivery of goods from a third country to Belarus) for sub-paragraphs (a) to (i) substitute—

- “(a) banknotes;
- (b) chemical and biological weapons-related goods;
- (c) critical-industry goods;
- (d) dual-use goods;
- (e) interception and monitoring goods;
- (f) internal repression goods;
- (g) luxury goods;
- (h) machinery-related goods;
- (i) military goods;
- (j) oil refining goods;
- (k) quantum computing and advanced materials goods;
- (l) tobacco industry goods.”;

(c) in regulation 23(1A) (making available goods and technology to a person connected with, or for use in, Belarus) for sub-paragraphs (a) to (i) substitute—

- “(a) banknotes;

- (b) chemical and biological weapons-related goods and chemical and biological weapons-related technology;
 - (c) critical-industry goods and critical-industry technology;
 - (d) dual-use goods and dual-use technology;
 - (e) interception and monitoring goods and interception and monitoring technology;
 - (f) internal repression goods and internal repression technology;
 - (g) luxury goods;
 - (h) machinery-related goods and machinery-related technology;
 - (i) military goods and military technology;
 - (j) oil refining goods and oil refining technology;
 - (k) quantum computing and advanced materials goods and quantum computing and advanced materials technology;
 - (l) tobacco industry goods.”;
- (d) in regulation 24(1A) (transfer of technology to a place in, or person connected with, Belarus) for sub-paragraphs (a) to (g) substitute—
- “(a) chemical and biological weapons-related technology;
 - (b) critical-industry technology;
 - (c) dual-use technology;
 - (d) interception and monitoring technology;
 - (e) internal repression technology;
 - (f) machinery-related technology;
 - (g) military technology;
 - (h) oil refining technology;
 - (i) quantum computing and advanced materials technology.”;
- (e) in regulation 25(1A) (technical assistance relating to certain goods and technology) for sub-paragraphs (a) to (g) substitute—
- “(a) chemical and biological weapons-related goods and chemical and biological weapons-related technology;
 - (b) critical-industry goods and critical-industry technology;
 - (c) dual-use goods and dual-use technology;
 - (d) interception and monitoring goods and interception and monitoring technology;
 - (e) internal repression goods and internal repression technology;
 - (f) machinery-related goods and machinery-related technology;
 - (g) military goods and military technology;
 - (h) oil refining goods and oil refining technology;
 - (i) quantum computing and advanced materials goods and quantum computing and advanced materials technology.”;
- (f) for regulation 26(6) (financial services and funds relating to certain arrangements), substitute—
- “(6) In this regulation—
“relevant goods” means—

- (a) chemical and biological weapons-related goods;
 - (b) critical-industry goods;
 - (c) dual-use goods;
 - (d) interception and monitoring goods;
 - (e) internal repression goods;
 - (f) machinery-related goods;
 - (g) military goods;
 - (h) oil refining goods;
 - (i) quantum computing and advanced materials goods;
- “relevant technology” means—
- (a) chemical and biological weapons-related technology;
 - (b) critical-industry technology;
 - (c) dual-use technology;
 - (d) interception and monitoring technology;
 - (e) internal repression technology;
 - (f) machinery-related technology;
 - (g) military technology;
 - (h) oil refining technology;
 - (i) quantum computing and advanced materials technology.”.

Amendments to Chapter 2B of Part 5 (imports from Belarus and related activities)

9. In Chapter 2B of Part 5—

- (a) in regulation 27I (import of goods originating in, or consigned from, Belarus)—
 - (i) in paragraph (3), for sub-paragraphs (a) to (d) substitute—
 - “(a) arms and related materiel;
 - (b) cement;
 - (c) gold and gold jewellery which has been exported from Belarus on or after the relevant day;
 - (d) iron and steel products;
 - (e) mineral products;
 - (f) potash;
 - (g) relevant processed gold;
 - (h) rubber;
 - (i) wood.”;
 - (ii) after paragraph (6), insert—
 - “(7) In this Chapter, “relevant day” means the day on which this paragraph comes into force.”;
- (b) in regulation 27J(2) (acquisition of goods connected to Belarus), for sub-paragraphs (a) to (d) substitute—
 - “(a) arms and related materiel;

- (b) cement;
 - (c) gold and gold jewellery which has been exported from Belarus on or after the relevant day;
 - (d) iron and steel products;
 - (e) mineral products;
 - (f) potash;
 - (g) rubber;
 - (h) wood.”;
- (c) in regulation 27K (supply and delivery of goods to places outside the UK)—
- (i) in paragraph (3), for sub-paragraphs (a) to (d) substitute—
 - “(a) arms and related materiel;
 - (b) cement;
 - (c) gold and gold jewellery which has been exported from Belarus on or after the relevant day;
 - (d) iron and steel products;
 - (e) mineral products;
 - (f) potash;
 - (g) rubber;
 - (h) wood.”;
 - (ii) in paragraph (3A), for sub-paragraphs (a) and (b) substitute—
 - “(a) cement;
 - (b) gold and gold jewellery which has been exported from Belarus on or after the relevant day;
 - (c) mineral products;
 - (d) potash;
 - (e) rubber;
 - (f) wood.”;
- (d) in regulation 27L(1) (technical assistance relating to certain activities)—
- (i) in sub-paragraphs (a), (b) and (c), for “iron and steel products, mineral products or potash”, in each place it occurs, substitute “cement, gold and gold jewellery which has been exported from Belarus on or after the relevant day, iron and steel products, mineral products, potash, relevant processed gold, rubber or wood”;
 - (ii) in sub-paragraph (d), for “mineral products or potash” substitute “cement, gold and gold jewellery which has been exported from Belarus on or after the relevant day, mineral products, potash, relevant processed gold, rubber or wood”;
- (e) in regulation 27M(1) (financial services, funds and brokering services relating to certain arrangements)—
- (i) in sub-paragraphs (a), (b) and (c), for “iron and steel products, mineral products or potash”, in each place it occurs, substitute “cement, gold and gold jewellery which has been exported from Belarus on or after the relevant day, iron and steel products, mineral products, potash, relevant processed gold, rubber or wood”;

- (ii) in sub-paragraph (d), for “mineral products or potash”, substitute “cement, gold and gold jewellery which has been exported from Belarus on or after the relevant day, mineral products, potash, relevant processed gold, rubber or wood”.

Trade: internet services

10. In Part 5 (Trade), after Chapter 2C (other trade prohibitions), insert—

“CHAPTER 2D

Internet services

Preventing provision of internet services to or for the benefit of designated persons

27P.—(1) A person who provides a social media service must take reasonable steps to prevent content that is generated directly on the service, or uploaded to or shared on the service, by a designated person being encountered by a user of the service in the United Kingdom.

(2) A person who provides an internet access service must take reasonable steps to prevent a user of the service in the United Kingdom from accessing, by means of that service, an internet service provided by a designated person.

(3) A person who provides an application store through which an application for an internet service may be downloaded or otherwise accessed must take reasonable steps to prevent a user of the application store in the United Kingdom from downloading or otherwise accessing, by means of that application store, an internet service provided by a designated person.

(4) A person who fails to comply with the requirement in paragraph (1), paragraph (2) or paragraph (3) commits an offence.

(5) In this regulation—

“content” means anything communicated by means of an internet service, whether publicly or privately, including written material or messages, oral communications, photographs, videos, visual images, music and data of any description;

“designated person” means a person who is designated under regulation 5 (power to designate persons) for the purposes of this regulation;

“encounter”, in relation to content, means read, view, hear or otherwise experience content;

“internet access service” means a service that provides access to virtually all (or just some) of the end points of the internet;

“internet service” means a service that is made available by means of the internet;

“social media service” has the meaning given by section 43(3) of the Finance Act 2020(4).”.

PART 5

Exceptions and licences

Amendments to regulation 31D (trade: exceptions relating to travellers, diplomatic missions and international organisations)

11. In regulation 31D—

- (a) in paragraph (1), after “critical-industry technology,” add “machinery-related goods, machinery-related technology,”;
- (b) after paragraph (3), insert—

“(3A) The prohibitions in regulations 21 to 23 (export of goods, supply and delivery of goods, and making available goods and technology) are not contravened by a relevant activity where—

- (a) the luxury goods are gold jewellery;
- (b) the relevant activity is the export of those goods to Belarus by a person who is travelling to Belarus (“P”);
- (c) the jewellery is—
 - (i) of a non-commercial nature;
 - (ii) for the personal use of P or of any immediate family member of P who is travelling with P (“I”); and
 - (iii) contained in P or I’s luggage;
- (d) the gold jewellery is owned by any of the persons referred to in sub-paragraph (c) (ii); and
- (e) the jewellery is not intended for sale.

(3B) The prohibitions in Chapter 2B of Part 5 (imports from Belarus and related activities) are not contravened by a relevant activity in relation to any gold, gold jewellery and relevant processed gold which is necessary for the official purposes of a diplomatic mission or consular post in Belarus, or an international organisation enjoying immunities in accordance with international law.

(3C) The prohibitions in Chapter 2B of Part 5 are not contravened by a relevant activity where—

- (a) the relevant activity is the import or acquisition of gold jewellery by a person who is travelling to the United Kingdom (“P”);
- (b) the gold jewellery is—
 - (i) of a non-commercial nature;
 - (ii) for the personal use of P or of any immediate family member of P who is travelling with P (“I”); and
 - (iii) contained in P or I’s luggage;
- (c) the gold jewellery is owned by any of the persons referred to in sub-paragraph (b) (ii); and
- (d) the gold jewellery is not intended for sale.”;

(2) in paragraph (4), for subparagraph (a) substitute—

““critical-industry goods”, “critical-industry technology”, “gold”, “gold jewellery”, “luxury goods”, “machinery-related goods”, “machinery-related technology”, “quantum computing and advanced materials goods”, “quantum computing and advanced materials technology” and

“relevant processed gold” have the meanings given in regulation 20(3) (interpretation of Part 5);”.

Amendments to regulation 31E (trade: exceptions relating to consumer communication devices and software updates)

12. In regulation 31E—

- (a) in paragraph (1), after “critical-industry technology” insert “, machinery-related goods, machinery-related technology”;
- (b) in paragraph (3)(d), after ““critical-industry technology”” insert “, “machinery-related goods”, “machinery-related technology””.

Amendments to regulation 31F (trade: exception for emergencies in certain cases)

13. In regulation 31F—

- (a) in paragraph (2), after “critical-industry technology,” insert “machinery-related goods, machinery-related technology,”;
- (b) in paragraph (3), after the definition of “critical-industry goods” and “critical industry technology” insert—
 - ““machinery-related goods” and “machinery-related technology” have the meanings given in regulation 20(3);”.

Trade: exceptions

14. After regulation 31I (ships: exceptions relating to port entry in emergencies), insert—

“Trade: exceptions in relation to banknotes

31J.—(1) Subject to paragraph (2), the prohibitions in regulations 21 to 23 (export of goods, supply and delivery of goods, and making available goods and technology) do not apply to the making available, supply, export or delivery of banknotes where the making available, supply, export or delivery is necessary for the personal use of natural persons travelling to Belarus or members of their immediate families travelling with them.

(2) The exception in paragraph (1) applies only to banknotes up to the value of £10,000 or its equivalent in any official currency of the European Union.

(3) The prohibitions in regulations 21 to 23 do not apply to the making available, supply, export or delivery of banknotes where the making available, supply, export or delivery is necessary for the official purposes of diplomatic missions, consular posts or international organisations in Belarus enjoying immunities in accordance with international law.

(4) The prohibitions in regulations 21 to 23 do not apply to anything done by a person who did not know and had no reasonable cause to suspect that the banknotes were ultimately—

- (a) to be exported, supplied, delivered or made available to a person connected with Belarus; or
- (b) for use in Belarus.

Trade: exceptions in relation to machinery-related goods and machinery-related technology

31K.—(1) The prohibitions in Chapter 2 of Part 5 (exports to Belarus and related activities), in so far as they related to machinery-related goods and machinery-related technology, do not apply to the sale, supply, making available or export of such goods, or to the related provision of technical and financial services, funds and brokering, for non-military use by a non-military end-user, necessary for a purpose specified in paragraph (2).

(2) The purposes are—

- (a) humanitarian assistance activity,
- (b) addressing a health emergency;
- (c) providing a response to a natural disaster;
- (d) medical or pharmaceutical purposes for the benefit of the civilian population of a country;
- (e) temporary use by news media;
- (f) ensuring cyber-security and information security for persons in Belarus except for the Government of Belarus or any undertakings directly or indirectly controlled by it.”.

PART 6

Information and records

Amendment to regulation 43 (trade: application of information powers in CEMA)

15. In regulation 43(2)(a) for “or 2C” substitute “, 2C or 2D”.

Internet services

16. After regulation 45 (general trade licences: inspection of records) insert—

“Internet services: power to request information and produce documents

45A.—(1) OFCOM may request a person to provide information within paragraph (2) if OFCOM believe that the person may be able to provide the information.

(2) Information within this paragraph is such information as OFCOM may reasonably require for the purpose of monitoring compliance with or detecting evasion of regulation 27P (preventing provision of certain internet services to or for the benefit of designated persons).

(3) OFCOM may specify the way in which, and the period within which, information is to be provided.

(4) If no such period is specified, the information which has been requested must be provided within a reasonable time.

(5) A request may include a continuing obligation to keep OFCOM informed as circumstances change, or on such regular basis as OFCOM may specify.

(6) A request may include a request to produce specified documents or documents of a specified description.

(7) Where OFCOM request that documents be produced, OFCOM may—

- (a) take copies of or extracts from any document so produced,
- (b) request any person producing a document to give an explanation of it, and
- (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
 - (i) in the case of a partnership, a present or past partner or employee of the partnership, or
 - (ii) in any other case, a past or present officer or employee of the body concerned,to give such an explanation.

Internet services: information offences

45B.—(1) A person commits an offence, if that person—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request under regulation 45A;
- (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
- (c) with intent to evade any provision of regulation 45A, destroys, mutilates, defaces, conceals or removes any document;
- (d) otherwise intentionally obstructs OFCOM in the exercise of their powers under regulation 45A.

(2) Where a person is convicted of an offence under this regulation, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.”.

17. In regulation 46 (disclosure of information)—

- (a) in paragraph (1), after “the Treasury” insert “, OFCOM”;
- (b) in paragraph (2)—
 - (i) for “.” substitute “,” at the end of sub-paragraph (d)(ii);
 - (ii) insert “or” at the end of sub-paragraph (d)(iii);
 - (iii) after sub-paragraph (d)(iii) insert—
 - “(iv) in relation to a monetary penalty under regulation 56A (OFCOM: power to impose monetary penalties).”.

PART 7

Enforcement

Amendments to regulation 48 (penalties for offences)

18. In regulation 48(4), in the opening words—

- (a) for “or”, occurring immediately before “42 (information offences in connection with Part 3)”, substitute “,”;
- (b) after “42 (information offences in connection with Part 3)” insert “, or 45B (internet services: information offences)”.

Amendments to regulation 50 (jurisdiction to try offences)

19. In regulation 50(1)—

- (a) for “or”, occurring immediately before “regulation 38(6), substitute “,”;
- (b) after “42 (information offences in connection with Part 3)” insert “, or 45B (internet services: information offences)”.

Amendments to regulation 53 (trade enforcement: application of CEMA)

20. In regulation 53, after paragraph (3), insert—

“(3A) The Commissioners may not investigate the suspected commission of an offence listed in paragraph (3B) (a “suspected offence”), unless the suspected offence has been the subject of—

- (a) a referral to the Commissioners by—
 - (i) the Secretary of State,
 - (ii) the Treasury, or
 - (iii) OFCOM, where such referral relates to a suspected offence under regulation 27P(4); or
- (b) a decision by the Commissioners to treat the suspected offence as if it had been referred to them under sub-paragraph (a).

(3B) Paragraph (3A) applies to the suspected commission of an offence under any of the following provisions—

- (a) regulation 22(3),
- (b) regulation 24A(3),
- (c) regulation 27(3),
- (d) regulation 27K(5),
- (e) regulation 27L(3) insofar as it applies to the prohibitions at regulation 27L(1)(c) and (d),
- (f) regulation 27M(4) insofar as it applies to the prohibitions at regulation 27M(1)(c) and (d),
- (g) regulation 27M(5) insofar as it applies to any activity prohibited under regulation 27M(2) which relates to arrangements described in sub-paragraphs 27M(1)(c) and (d),
- (h) regulation 27P(4).

(3C) Regulation 53(3A) also applies to the suspected commission of a relevant offence under any of regulations 36(1), 36(2), 44(6) and 45(5) insofar as—

- (a) the suspected offence relates to a licence issued under regulation 33, and
- (b) the prohibited activity authorised by that licence would, if no licence had been issued, amount to an offence specified in paragraph (3B)(a) to (h).”.

OFCOM: enforcement

21. After regulation 56 (monetary penalties) insert—

“OFCOM: power to impose monetary penalties

56A.—(1) OFCOM may impose a monetary penalty on a person if they are satisfied, on the balance of probabilities, that—

- (a) the person has failed to comply with a requirement that is imposed under regulation 27P (internet services), or
- (b) the person has failed to comply with an obligation that is imposed by or under regulation 45A (internet services: power to request information and produce documents).

(2) The amount of the penalty is to be such amount as OFCOM may determine, not exceeding £1,000,000.

(3) Any monetary penalty payable under this regulation is recoverable by OFCOM as a civil debt.

(4) Any monetary penalty received by OFCOM by virtue of this regulation must be paid into the Consolidated Fund.

OFCOM: monetary penalties: procedural rights

56B.—(1) Before imposing a monetary penalty on a person under regulation 56A, OFCOM must inform the person of their intention to do so.

(2) OFCOM must also—

- (a) explain the grounds for imposing the penalty,
- (b) specify the amount of the penalty,
- (c) explain that the person is entitled to make representations, and
- (d) specify the period within which any such representations must be made.

(3) If (having considered any representations), OFCOM decides to impose the penalty, OFCOM must inform the person of their decision.

(4) A person to which the decision relates may appeal to the Upper Tribunal against the decision.

(5) On an appeal under paragraph (4), the Upper Tribunal may—

- (a) dismiss the appeal,
- (b) quash OFCOM’s decision to impose the penalty, or
- (c) uphold that decision but substitute a different amount for the amount determined by OFCOM.”.

PART 8

Schedules

New Schedules 2H to 2J

22. After Schedule 2G (quantum computing and advanced materials goods and technology), insert the following Schedules, which are set out in the Schedule to these Regulations—

- (a) Schedule 2H (chemical and biological weapons-related goods and chemical and biological weapons-related technology);
- (b) Schedule 2I (machinery-related goods and machinery-related technology);

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(c) Schedule 2J (cement, gold, gold jewellery, rubber and wood products).

6th June 2023

David Rutley
Parliamentary Under Secretary of State
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