



## EXPLANATORY NOTES

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# Sanctions and Anti-Money Laundering Act 2018

Chapter 13

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# SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Sanctions and Anti-Money Laundering Act 2018 (c. 13) which received Royal Assent on 23 May 2018.

- These Explanatory Notes have been prepared by the Foreign and Commonwealth Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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## Overview of the Act

- 1 The Sanctions and Anti-Money Laundering Act 2018:
  - a. enables the UK to continue to implement United Nations (UN) sanctions regimes and to use sanctions to meet national security and foreign policy objectives; and
  - b. enables anti-money laundering and counter-terrorist financing measures to be kept up to date, helping to protect the security and prosperity of the UK and to continue to align the UK with international standards.
- 2 These matters are currently mostly dealt with through EU law. This takes effect through the European Communities Act 1972 or through legislation made under it. The European Communities Act 1972 will be repealed when the UK withdraws from the European Union (EU).
- 3 The Act is in three parts and has three schedules:
  - a. Part 1 provides powers to create sanctions regimes and contains procedures relating to the review of sanctions.
  - b. Part 2 provides powers to create anti-money laundering and counter-terrorist financing regulations, and contains provisions relating to registers of beneficial owners of overseas entities and beneficial owners of companies registered in British Overseas Territories.
  - c. Part 3 contains general provisions supporting Parts 1 and 2 of the Act, including definitions.
  - d. Schedule 1 makes further provision about regulations which impose trade sanctions and relates to section 5 in Part 1.
  - e. Schedule 2 makes further provision about regulations for the purposes of anti-money laundering and counter-terrorist financing and relates to section 49 in Part 2.
  - f. Schedule 3 makes consequential amendments to related primary legislation.

## Policy background

- 4 Sanctions are an important foreign policy and national security tool. They are restrictive measures which are designed to be temporary and can be used to coerce a change in behaviour, to constrain behaviour, or to communicate a clear political message to other countries or persons. As a permanent member of the UN Security Council, the UK plays a central role in negotiating global sanctions to counter threats to international peace and security. Like all other UN states, the UK is obliged under international law to implement UN sanctions.
- 5 The UK and its international partners have also imposed and implemented sanctions in situations where the UN has chosen not to act, but where the UK has considered an international response was still necessary. Often this has involved close cooperation between the EU and the United States, with the support of others, including Canada, Australia, Switzerland and Norway. This has included creating new sanctions regimes, such as those in relation to Syria, and enhancing UN sanctions with additional autonomous measures, for example the sanctions against North Korea.

- 6 The UK currently implements over 35 sanctions regimes. These include country-specific sanctions regimes, including in relation to Russia, North Korea and Iran, as well as regimes targeting Da'esh, Al Qaida and other terrorist groups. Sanctions can have a real impact, as shown in the key role they played in securing agreement for Iran to place robust safeguards on its nuclear programme. There are currently around 2,000 individuals and entities subject to sanctions implemented by the UK.
- 7 As set out in the government's White Paper, 'Public consultation on the United Kingdom's future legal framework for imposing and implementing sanctions' (Cm 9408), a new legislative framework was needed to provide powers to impose sanctions, to enable the UK to comply with its international obligations and continue to use sanctions as a foreign policy and national security tool once the European Communities Act 1972 has been repealed. The Act ensures maximum continuity and certainty; it sets up the powers that the UK will need to carry on implementing sanctions as it currently does. This view was also reflected in the formal government response to the consultation which was published on 2 August 2017 (Cm 9490).<sup>1</sup>
- 8 The government's White Paper additionally set out the intention to create a new legislative power to enable it to make substantive amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (Money Laundering Regulations 2017) on the UK's withdrawal from the EU, and to pass new regulations in connection with anti-money laundering and counter-terrorist financing (AML/CTF). In the absence of such a power, it would not be possible to reform the AML/CTF regime to address emerging risks in these areas after the UK ceases to be a member of the EU. The government would also be unable to update the AML/CTF regime to reflect international standards set by the Financial Action Task Force (FATF), of which the UK is a member.

## Legal background

- 9 The UK's implementation of UN and other multilateral sanctions regimes largely relies on the European Communities Act 1972. The UK has some limited domestic powers to unilaterally impose sanctions (notably in domestic counter-terrorism and export control), but these are not sufficient to implement the full range of sanctions currently in force through the UN and EU.
- 10 The United Nations Act 1946 provides powers for the government to implement sanctions agreed through resolutions of the UN Security Council. However, in 2010 the UK Supreme Court ruled that the power in that Act could not be lawfully used to apply open-ended asset freezes, which are a core element of most sanctions regimes. Following that ruling the Terrorist Asset-Freezing etc. Act 2010 was passed. Part 1 of that Act, which deals with terrorist asset-freezing, is repealed by this Act, which contains powers covering terrorist asset-freezing.
- 11 Other legislation relating to sanctions includes the Immigration Act 1971 (which automatically excludes individuals from the UK who are subject to UN or EU travel bans) and the Export Control Act 2002 (which enables some trade sanctions to be put in place). The most recent domestic primary legislation relating to sanctions is Part 8 of the Policing and Crime Act 2017, which put in place new powers enabling UN sanctions to be implemented without delay and made changes to the measures used to enforce financial sanctions.

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<sup>1</sup> Both the White Paper and the government's response to the public consultation can be found on [gov.uk](http://gov.uk).



- 12 After the UK leaves the EU, the UK will be unable to continue to use the European Communities Act 1972 to implement sanctions. Therefore the UK will need a domestic framework of powers to continue to meet its international obligations to implement UN sanctions. Without this, the UK will be in breach of international law. The UK will also need new powers to implement sanctions which have not been put in place at UN level, otherwise it will be unable to co-operate with international partners, using sanctions as a foreign policy and national security tool.
- 13 The European Union (Withdrawal) Act 2018 will preserve current sanctions regimes in force when the UK withdraws from the EU. The UK will not be able to rely on provisions in that Act in the long term because they do not enable preserved sanctions to be amended to keep up with fast moving events, and so existing regimes would quickly become out of date. Without new domestic sanctions powers, the UK would not be able to add, amend or lift sanctions regimes in response to UN requirements or in response to other objectives, such as foreign policy or national security imperatives.
- 14 The UK also currently relies on the European Communities Act 1972 to transpose EU Directives relating to money laundering and terrorist financing. Such Directives typically reflect the international standards set by FATF. These powers were recently used in June 2017 to transpose the Fourth EU Money Laundering Directive and elements of the associated Funds Transfer Regulation. Although the European Union (Withdrawal) Act 2018 will save the UK's AML/CTF regime in effect when the UK withdraws from the EU, the UK needs a legal power to make, amend and repeal relevant regulations. Failure to create such a power would prevent the UK updating its AML/CTF regime to address matters including emerging risks and updated international standards.
- 15 This Act makes consequential amendments to:
  - a. The Immigration Act 1971;
  - b. The Senior Courts Act 1981;
  - c. The Regulation of Investigatory Powers Act 2000;
  - d. The Serious Organised Crime and Police Act 2005;
  - e. The Serious Crime Act 2007;
  - f. The Crime and Courts Act 2013;
  - g. The Investigatory Powers Act 2016; and
  - h. The Policing and Crime Act 2017.
- 16 The Act also repeals and revokes certain legislative provisions in connection with the repeal of Part 1 of the Terrorist Asset-Freezing etc. Act 2010.

## Territorial extent and application

- 17 The territorial extent of the Act is set out in section 63.
- 18 The provisions of the Act and regulations made under it are enforceable against all persons within the UK. The Act also enables sanctions regulations to be enforced against all UK persons abroad.
- 19 The provisions of Part 1 of the Act and regulations made under it can be extended to the British Overseas Territories and Crown Dependencies by Order in Council.
- 20 The matters to which the provisions of the Act relate are not within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.
- 21 The table in Annex B contains a summary of the position regarding territorial extent and application in the UK. The table also summarises the position regarding Legislative Consent Motions.

# Commentary on provisions of Act

## Part 1: Sanctions regulations

### Chapter 1: Power to make sanctions regulations

#### Section 1: Power to make sanctions regulations

- 22 Section 1 gives effect to the core purpose of this part of the Act. It enables an appropriate Minister to make regulations imposing sanctions. An 'appropriate Minister' is defined as the Secretary of State or the Treasury. This power enables the UK to continue to comply with its international obligations and to use sanctions to meet foreign policy and national security objectives after exiting the EU.
- 23 Regulations may only be made where the appropriate Minister considers it appropriate for the following purposes:
- a. complying with a United Nations obligation;
  - b. complying with any other international obligation (which could include obligations arising from UK membership of other international organisations, for example the Organisation for Security and Co-operation in Europe (OSCE), as well as other international treaties or agreements); or
  - c. for purposes which:
    - i. further the prevention of terrorism in the UK or elsewhere;
    - ii. are in the interests of national security;
    - iii. are in the interests of international peace and security;
    - iv. promote the resolution of armed conflicts or the protection of civilians in conflict zones;
    - v. provide accountability for, or be a deterrent to, gross violations of human rights, or otherwise promote compliance with international human rights law or respect for human rights;
    - vi. promote compliance with international humanitarian law;
    - vii. contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction;
    - viii. promote respect for democracy, the rule of law and good governance; or
    - ix. further a foreign policy objective.
- 24 All sanctions regulations made by the appropriate Minister must set out the purpose for which they are made (subsection (3)). There are additional requirements for regulations made for a purpose which is not compliance with a UN or other international obligation, and these additional requirements are detailed in section 2.
- 25 In subsection (5) the different types of sanctions are laid out. These different types of sanctions are subsequently set out and explained in sections 3 to 8 of the Act. The Parliamentary procedures applying to sanctions regulations depends on their content (see section 55).

## Section 2: Additional requirements for regulations for a purpose within section 1(2)

- 26 This section imposes additional requirements for sanctions regulations which are not made for the purpose of compliance with a UN or other international obligation. The appropriate Minister must have determined that there are good reasons to pursue the purpose of the regulations, and must have determined that the imposition of sanctions is a reasonable course of action for that purpose.
- 27 When making regulations to which this section applies, the appropriate Minister must lay before Parliament, at the same time that the regulations (or draft regulations) are laid, a report which addresses the requirements detailed in this section. The Minister does not have to disclose anything which might damage national security or international relations.

## Section 3: Financial sanctions

- 28 Section 3 sets out the types of financial sanctions that can be imposed. Subsection (1)(a) enables the government to subject a designated person to an asset freeze. Asset-freezing means that it is generally prohibited to deal with the frozen funds or economic resources, belonging to or owned, held or controlled by a designated person. This would limit a designated person's ability to deal with any economic resource or funds they currently own, hold, or control. The terms "funds", "economic resources" and "freeze" are defined in section 60 of the Act.
- 29 Subsections (1)(b) and (c) contain wide powers enabling the government to prevent financial services from being provided to, or being procured from, prescribed persons (including designated persons). This enables the government to impose wider financial restrictions, including prohibitions on access to finance and capital markets. This could include, but is not limited to, prohibiting the supply of financial services to certain markets, or sections of markets, or preventing the transfer of funds to a country, region or sector. An example of this is the sectoral measures currently in place aimed at limiting access to EU capital markets for Russian State-owned financial institutions. The term "financial services" is defined in section 61.
- 30 Subsection (1)(d) enables the government to prohibit funds and economic resources being made available to, or for the benefit of, prescribed persons (including designated persons). This provision also forms part of an asset freeze. "Financial products" are also defined in section 61.
- 31 Subsections (1)(g) and (2) enable the government to place restrictions on owning, controlling or having a prescribed interest in, or commencing or maintaining commercial relationships with, prescribed persons (including designated persons). These powers enable the government to put in place the wide range of sanctions currently implemented via EU legislation.
- 32 Subsection (3) provides that the powers in subsection (1) include the ability to prohibit funds, economic resources or financial services being made available, received, procured or provided, either directly or indirectly to, from, or by a designated person.
- 33 Subsections (4) to (6) deal with terms used in the section.

## Section 4: Immigration sanctions

- 34 Section 4 provides for travel bans. Those who are subject to travel bans would be "excluded persons" within the meaning of section 8B of the Immigration Act 1971. Section 8B of the Immigration Act 1971 provides that an excluded person must be refused leave to enter or leave to remain in the UK, any leave the person holds is cancelled, and any exemption from immigration control no longer applies.

- 35 Travel bans are used to restrict the movement of designated persons and those associated with regimes or groups, including terrorist groups, whose behaviour is considered unacceptable by the international community. Currently, section 8B of the Immigration Act 1971 provides for an international travel ban made either by the UN Security Council or the EU to be enforceable by the UK. Unless an exemption applies, a person who is subject to a travel ban is prevented from entering the UK.
- 36 The Act (see Schedule 3) amends section 8B of the Immigration Act 1971 to accommodate UK autonomous sanctions regimes, as well as making provision for retained EU travel bans after the UK has left the EU.

### Section 5: Trade sanctions

- 37 Trade sanctions are used to prevent a variety of activities relating to target countries, specific sectors within those countries, or designated persons. They cover the export, import, movement and transfer of goods and technology, and the provision and procurement of services. They also cover investment and company ownership. Section 5 links to Schedule 1 which sets out the types of trade sanctions that can be imposed and their effect.

### Section 6: Aircraft sanctions

- 38 Section 6 enables the government to impose prohibitions or requirements in relation to aircraft. These powers would, for example, permit the Secretary of State to make directions controlling the movement of the aircraft within the UK and the airspace over the UK. Directions could also require a disqualified aircraft to remain in the UK once landed or, if in flight, to not overfly the UK or to leave UK airspace. Such directions can be given by the Secretary of State to the Civil Aviation Authority (CAA), to a licensee who is providing air traffic services, or to an airport operator in relation to a disqualified aircraft. These bodies will also have the authority to direct aircraft operators or pilots in command of disqualified aircraft for the same purposes.
- 39 Disqualified aircraft are aircraft which are registered in, or originate from, a prescribed (sanctioned) country, as well as aircraft which are owned, chartered or operated by designated persons or persons connected with a prescribed country.
- 40 Aircraft sanctions will allow the government to control the movement of disqualified aircraft in line with its existing sanctions obligations. For example, there is currently a prohibition against aircraft operated by North Korea or aircraft originating from North Korea from overflying the UK. Aircraft sanctions will also enable relevant UK permits to be denied to such aircraft which would prevent them from using UK airports.
- 41 This section also allows regulations to be made which would prevent UK persons registering an aircraft in a prescribed country which is subject to sanctions. Regulations may also make it an offence to own, charter or operate an aircraft which is registered in a prescribed country. Directions can also be given to a British-controlled aircraft, preventing the aircraft from overflying or landing in a prescribed country.
- 42 This section also provides the power for the Secretary of State prevent the registration of aircraft and a power to direct the CAA to remove an aircraft from the UK aircraft register where it has been identified that a designated person holds an interest in that aircraft or where an aircraft has been chartered by demise to a designated person.

### Section 7: Shipping sanctions

- 43 Section 7 contains powers to control the movement of disqualified, designated or specified ships to prevent such ships from entering UK waters or, if they have already done so, to require such ships to leave or to be detained whilst enforcement action is taken.

- 44 Disqualified ships are those which are registered in, fly the flag of, or originate from a prescribed (sanctioned) country. They can also be ships which are owned (wholly or partially), controlled, chartered, operated or crewed (wholly or partially) by designated persons, or persons connected with a prescribed country. A designated ship is one which has been designated by the UN. A specified ship is one which has been specified by the appropriate Minister. Provisions relating to specifying ships are set out at section 14.
- 45 The Secretary of State may give directions to the master or pilot of a ship, or direct the relevant harbour authority to give such a direction. These directions can include, but are not limited to, directing a ship to leave the UK, to go to a specified harbour or not to enter the UK.
- 46 This section allows ships to be refused registration on the UK Ship Register on the basis that a designated person or persons connected with a prescribed country hold an interest in them, or because it has been specified by an appropriate Minister. If a vessel is already on the UK Ship Register, this section provides it to be removed if those circumstances arise.
- 47 The Secretary of State can also issue directions to a British ship anywhere in the world, in order to prevent it from entering a country in which relevant sanctions are in force.

### Section 8: Other sanctions for the purposes of UN obligations

- 48 This section enables Ministers to put in place other forms of sanctions not specifically mentioned in sections 3 to 7 but which are required in order to comply with UN obligations. This would enable the UK to continue to uphold its international law obligations in the event that the UN requires the imposition of a sanction that is not otherwise contained within sections 3 to 7. It therefore future-proofs the Act against the development of new types of sanctions by the UN Security Council.

### Sections 9 and 10: “Designated persons” and Designation powers: general

- 49 Sections 9 to 13 deal with the designation of persons for the purpose of sanctions. These provisions would enable persons to be individually subjected to sanctions measures such as asset freezes (see section 3). There are around 2,000 designated persons under existing sanctions regimes implemented by the UK. Examples include individuals involved in providing support to the Syrian regime or those assisting in the nuclear, ballistic and weapons of mass destruction programmes in North Korea.
- 50 Section 9 introduces the term “designated persons”. Persons can be designated by an appropriate Minister either by name (see section 11) or description (see section 12). There is a separate procedure for the designation of those named in UN Security Council resolutions (see section 13). “Persons” can be companies and other entities that have legal personality as well as associations or groups of persons.
- 51 Section 10 enables Ministers to set out in regulations how designation powers are to be exercised, including requirements for notification and publicity. Regulations must place an obligation on the appropriate Minister to take such steps as are reasonably practicable to inform designated persons of their designation, though there is no need for a designated person to be notified in advance of any designation coming into effect. The regulations may also make provision about public notification of designations.

- 52 These designation provisions should be considered alongside provisions in Chapter 2, which require Ministers to undertake regular reviews of sanctions and give designated persons the right to reassessment, and Chapter 4, which enable designated persons to have access to the courts.
- 53 The government intends to publish the details of UK designated persons on an administrative list which will be kept up to date and made available on [its website](#)<sup>2</sup>. This is consistent with the approach taken at the moment by HM Treasury’s Office of Financial Sanctions Implementation (OFSI), which already publishes a [consolidated list of financial sanctions targets](#)<sup>3</sup>.

### Section 11: Designation of a person by name under a designation power

- 54 This section places restrictions on the ability of an appropriate Minister to designate a person by name. These restrictions must be set out in sanctions regulations.
- 55 The Minister can only designate a person where the Minister has reasonable grounds to suspect the person is involved in, or connected to, an activity set out in the regulations for a particular sanctions regime (“an involved person”) and considers that it is appropriate to designate that person. The Minister must have regard to the purpose of the sanctions regime as set out in the regulations and to the likely significant effects of the designation on the person, as far as known.
- 56 When a person has been designated by name, the notification required by section 10 must include a brief statement of reasons. The Minister does not have to disclose anything which might damage national security or international relations, the prevention or detection of serious crime, or the interests of justice.
- 57 An “involved person” could include an individual, group or organisation involved in an activity, or a person controlled by them, someone acting on their behalf, or an associated person.

### Section 12: Designation of persons by description under a designation power

- 58 This section is similar to section 11 but provides for circumstances where an appropriate Minister designates persons by description rather than by name. This power can only be exercised when it is not practicable for the Minister to identify by name all the persons falling within the description, and the description is sufficiently precise that a reasonable person would know whether any person falls within it. In addition, the same restrictions apply as to designations under section 11.

### Section 13: Persons named by or under UN Security Council Resolutions

- 59 This section provides for designation where the UK has an obligation under international law to designate persons who are named on a UN list. In these cases the regulations made under the Act must provide that the persons named on a UN list are designated persons. Subsections (2) and (3) enables the regulations to refer to the UN list without having to replicate that list in UK regulations.

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<sup>2</sup> <https://www.gov.uk>

<sup>3</sup> <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>

## Section 14: “Specified ships”

- 60 This section enables an appropriate Minister to specify a ship that will be subject to sanctions, when authorised to do so by the regulations.
- 61 The Minister can only specify a ship where they have reasonable grounds to suspect that a ship is involved in an activity specified in the regulations, and where they consider it is appropriate for that ship to be specified, having regard to the purpose of the regime as set out in the regulations. Sanctions against individual vessels have been used against, for example, vessels known to be involved in the smuggling of Libyan oil or owned by a company implicated in breaching the arms embargo relating to North Korea.
- 62 As is the case for designations, a consolidated list of specified ships will be maintained on gov.uk.

## Section 15: Exceptions and licences

- 63 This section enables Ministers to disapply the effect of sanctions in particular circumstances.
- 64 Subsection (2)(a) enables regulations to provide for exceptions to any prohibition or requirement imposed by regulations. Examples of where an exception may be used are:
  - a. to enable interest or other earnings on accounts to accrue, provided that any such interest, other earnings and payments will also be frozen;
  - b. to enable financial or credit institutions in the UK to credit frozen accounts where they receive funds transferred to the account of a sanctioned person, entity or body, provided that any credits to such accounts will also be frozen;
  - c. to enable the export of, and associated technical assistance for, equipment used by peacekeeping missions.
- 65 Subsection (2)(b) provides that persons may take any actions which would otherwise breach the prohibitions in the regulations, if they do so under authority of a licence granted by an appropriate Minister. Licensing grounds for sanctions may include:
  - a. payments to satisfy the essential needs and/or payments necessary for basic expenses of natural or legal persons, entities or bodies, such as food, rent, and energy;
  - b. payment for insurance;
  - c. payment of reasonable professional fees and the reimbursement of reasonable and necessary incurred expenses associated with the provision of legal services;
  - d. payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;
  - e. payments required in extraordinary situations or for extraordinary expenses;
  - f. payments required by a court order;
  - g. payment due under contracts, agreements or obligations that were concluded or arose before the date on which the natural or legal person, entity or body referred to in the asset freeze was sanctioned;
  - h. payment necessary to ensure human safety, environmental protection or evacuations, or for the verification and destruction of chemical weapons;
  - i. payment intended to be used for official purposes of a diplomatic mission, consular post or international organisation;
  - j. export of goods or transfer of technology for humanitarian purposes; or



- k. brokering, technical assistance, and other services provided for humanitarian purposes.
- 66 Subsection (3) deals with the contents, scope and duration of licences issued by an appropriate Minister. A licence must specify the acts it authorises. It may be general, or granted to a category of persons or to a particular person. It may be subject to conditions. It may be of indefinite duration, or subject to an expiry date. A general licence may authorise multiple parties to undertake specific activities, for example certain types of transactions relating to humanitarian aid. A licence may be varied or revoked, and any such changes will be communicated to any affected designated person or their authorised representative.
- 67 This section also provides a power to make exceptions to a travel ban either for an individual or for a group of individuals. This provides the flexibility to disapply the effects of a travel ban on a case-by-case basis, for example to allow an individual to travel to attend an international conference convened by an intergovernmental organisation. This can be done either in the regulation itself or by a direction of the appropriate Minister at a later date.
- 68 Subsection (6) clarifies that exceptions to the prohibitions and requirements in any regulations to be made may be made to support activity carried out for the purposes of national security or the prevention or detection of serious crime.

## Section 16: Information

- 69 This section intends to help the government ensure that sanctions work effectively, by requiring people to report relevant information, by enabling the government to collect information, and by authorising the sharing of information.
- 70 These powers enable the government to monitor compliance with the regulations and obtain evidence if it believes that the regulations have been contravened or circumvented.
- 71 In relation to financial sanctions, the powers are intended to be used to require people to report cases where they become aware or have reasonable grounds to suspect they are dealing with a designated person or a designated person has committed an offence. The government's intention is that the regulations will set out what information these persons must report.
- 72 This provision enables the UK to replicate the wide scope of the existing reporting requirement under directly-applicable EU law.
- 73 In relation to financial sanctions, for example, the regulations will give the government powers to request information from a designated person on the funds or economic resources they hold, own or control or that someone else does on their behalf, and how those funds are disposed of. The government may request information on expenditure by or on behalf of the designated person. The government can use these powers when it thinks it is necessary for the purposes of monitoring compliance or detecting evasion of the regulations.
- 74 The regulations could also require registers or records to be maintained, and allow the government to request from any person in or resident in the UK any information that the government may reasonably require to assess compliance with licences.
- 75 The regulations under this section could also allow the government to disclose information received on the basis of these provisions. This includes disclosure to police officers, office holders of the Crown in the UK government or devolved administrations, regulatory bodies in the UK and international partners.

## Section 17: Enforcement

- 76 This section makes provision for the enforcement of sanctions.

- 77 Subsection (3) enables sanctions regulations to set out the powers and duties of any person who is to enforce the regulations.
- 78 Subsections (4) and (5) enable sanctions regulations to create criminal offences, and set sentences of up to 10 years imprisonment following conviction on indictment.
- 79 Subsection (6) enables regulations to apply, with or without modification, provisions of the Customs and Excise Management Act 1979 for the purposes of enforcement. Subsection (8) enables the regulations to specify that investigatory powers in Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 can be used to investigate breaches of sanctions.
- 80 Subsection (9) enables regulations to specify whether the civil monetary penalty regime in Part 8 of Policing and Crime Act 2017 applies where prohibitions are breached. That Act created powers to impose monetary penalties for financial sanctions offences and brings financial sanctions offences into the scope of Deferred Prosecution Agreements (under the Crime and Courts Act 2013) and Serious Crime Prevention Orders (under the Serious Crime Act 2007). Consequential amendments made in Schedule 3 preserve these powers for breaches of financial sanctions and bring other breaches of sanctions offences within the scope of Deferred Prosecution Agreements and Serious Crime Prevention Orders (as explained below in relation to Schedule 3). Provision under this subsection will clearly identify which sanctions are financial sanctions that, when breached, may attract a civil monetary penalty. The government does not intend to impose civil monetary penalties in respect of breaches of trade sanctions.

### Section 18: Report in respect of offences in regulations

- 81 This section requires that where regulations made under section 1 include criminal offences, a report identifying the offences, and giving the Minister's good reasons for creating them and for setting any terms of imprisonment that apply to them, must be laid before Parliament.

### Section 19: Enforcement: goods etc on ships

- 82 This section allows regulations made under section 1 to provide for powers to stop and search a ship outside the UK, and to seize goods (including technology) found on the ship. The powers are exercisable for the purpose of enforcing prohibitions in sanctions regulations relating to the goods or technology.

### Section 20: Goods etc on ships: non-UK conduct

- 83 This section allows regulations under section 1 to provide for powers to stop and search a ship outside the UK and to seize goods or technology found on the ship. The powers are exercisable for the purpose of seizing goods where there has been conduct (or suspected conduct) which would be a contravention of a prohibition in sanctions regulations relating to the goods or technology, but for the fact that the conduct falls outside the territorial scope defined in section 21.

### Section 21: Extra-territorial application

- 84 This section refers to the scope of regulations made under section 1 of the Act. It confirms that prohibitions or requirements can be imposed on any person in the UK (including UK territorial waters), or on any UK person anywhere in the world. A UK person is defined as including either a UK national or a body, for example a company, which is incorporated or constituted in the UK.
- 85 The section also allows for Her Majesty, by Order in Council, to extend the effect of sanctions on UK persons to bodies incorporated or constituted under the law of any of the Channel Islands, the Isle of Man, and any of the British Overseas Territories, as if they were UK persons.

## Chapter 2: Review by appropriate Minister

### Section 22: Power to vary or revoke designation made under regulations

- 86 This section enables the appropriate Minister who made a designation to revoke or vary that designation.
- 87 Revoking a designation would mean that the designated person in question would no longer be subject to the restrictions set out in the relevant sanctions regulations. Varying a designation would allow the Minister to adjust a designation to match any change in the situation, for example updating the information used to identify an individual as new information comes to light.
- 88 This section allows the appropriate Minister to vary or revoke a designation at their discretion. However, it also obliges Ministers to use this power to revoke a designation where the required conditions of the relevant designation power are not met in respect of the designation. This might be as a result of actions taken by persons to seek reassessment of their designation, or the government's own review of designations, as set out below.

### Section 23: Right to request variation or revocation of designation

- 89 This section gives those who have been designated by an appropriate Minister under a sanctions regime the right to ask the government to revoke or vary their designation, for example where a person believes he has been misidentified, or considers the designation does not meet the required evidentiary threshold. This is an administrative challenge which leads to a reassessment of a designation, and is designed to allow access to quick redress. This section does not apply to designations that are made as a result of a UN obligation – separate provision is made for this in section 25 which is explained below.
- 90 The appropriate Minister will have a duty to consider these requests as soon as reasonably practicable (as specified in section 33). The Minister may take the decision to use the power to vary or revoke a decision, or may choose to take no action so that the designation remains in force. Designated persons need to follow this procedure before bringing any challenge in the courts (as specified in section 38).
- 91 Once a request has been reassessed, the government will not be required to consider further requests from the same person unless that person can show that there is a significant matter that the government had not previously been aware of. This restriction is to guard against vexatious repetition of requests.

### Section 24: Periodic review of certain designations

- 92 This section requires the government to reconsider every designation which is in force within a time period that is no more than three years since either the regime was established, or the last review. The section permits reviews to be carried out against a shorter time frame if desired. This ensures that the information against all designated persons is regularly reviewed, and that sanctions are not maintained in perpetuity by default. In practice, this would require a reassessment of the evidence used to designate a person.

### Section 25: Right of UN-named person to request review

- 93 Under this section a person who has been designated in order to comply with a UN designation may request that the appropriate Minister use their best endeavours to persuade the UN to remove them from the relevant UN instrument. The appropriate Minister must decide whether or not to comply with this request. Once a request has been made, further requests cannot be made unless there is a significant new matter (similar to the provision under section 23). This section reflects the fact that the UK is under a binding obligation in international law to designate the person, and the obligation persists until the designation is lifted by the UN itself.

## Section 26: Power to revoke specification of ship made under regulations

- 94 This section enables the appropriate Minister who specified a ship to revoke that specification. It also requires the Minister who specified the ship, under the procedure mentioned in section 14, to revoke the specification when the Minister considers that the required conditions for specification are no longer met.

## Section 27: Right to request revocation of specification of ship

- 95 Any person affected by a ship being specified for sanctions purposes (under section 14), may make a request to the appropriate Minister to revoke the specification. This is similar to the procedure for designated persons under section 23. When a request has been made under this section, a further request cannot be made unless it is based on a significant new matter that the Minister has not previously considered.
- 96 The appropriate Minister will have a duty to consider these requests as soon as reasonably practicable (as specified in section 33). The Minister may take the decision to use the power to revoke a decision, or they may choose to take no action so that the specification remains in force. Persons affected by the specification need to follow this procedure before bringing any challenge in the courts (as specified in section 38).

## Section 28: Periodic review where ships are specified

- 97 This section requires the Minister who has specified a ship under section 14 to review the specification within three years from the date that the regime was established and within every three year period after the previous review. The Minister will have to assess whether the required conditions for specification continue to be met.

## Section 29: UN-specified ship: right to request review

- 98 Where a ship has been specified for any purposes by a UN Security Council resolution, any persons affected by the specification may request the Secretary of State to use their best endeavours to secure that the ship ceases to be specified. The Secretary of State must decide whether to comply with this request or not. This section reflects the fact that the UK is under a binding obligation in international law to apply sanctions to UN specified ships, and the obligation persists until the specification is lifted by the UN itself.
- 99 When a request has been made under this section, further requests cannot be made unless they are based on a significant new matter that the appropriate Minister has not previously considered.

## Section 30: Review by appropriate Minister of regulations under section 1

- 100 This section requires that, on an annual basis, the appropriate Minister must consider whether sanctions regulations are still appropriate for their specified purposes. For sanctions regulations which are made for a purpose other than compliance with UN obligations or other international obligations, the Minister must also consider whether there are good reasons to pursue that purpose and whether sanctions are a reasonable course of action for that purpose. This will help to ensure that each sanctions regime only remains in place for as long as it is serving a valid purpose and will help to prevent regimes remaining on the statute book after they are no longer required. This would be a high level political review of the overall regime, particularly focused on whether or not it is contributing to its intended purpose, and would not include a review of the evidence underpinning each designation. The appropriate minister who has carried out the review is required to lay before Parliament a written report outlining the conclusions of the review.

### Section 31: Independent review of regulations with counter-terrorism purpose

101 This section requires the appointment of an independent reviewer to conduct reviews of sanctions regulations which impose asset freezes or similar financial sanctions, where the regulations are made for purposes relating to the prevention of terrorism and they have been referred to the independent reviewer by the Secretary of State or the Treasury for review. It is intended to replicate the role of the independent reviewer appointed under the Terrorist Asset Freezing etc Act 2010, which is abolished by the Act.

### Section 32: Periodic reports on exercise of power to make regulations under section 1

102 This section requires annual reports to be made about the use of the power to make sanctions regulations. A report under this section must identify regulations made for the purpose of providing accountability for or being a deterrent to gross human rights violations. It must also specify any recommendations made by a Parliamentary Committee for the use of that power in relation to such violations, and include any government response.

### Section 33: Procedure for requests and reviews

103 This section allows Ministers to set out, through regulations, the procedures applying to the review and reassessment mechanisms in the Act. The regulations must require decisions on reassessments to be taken as soon as is reasonably practicable.

## Chapter 3: Temporary powers in relation to EU sanctions lists

### Section 34: Temporary powers in relation to EU sanctions lists

104 Sections 34 and 35 contain temporary powers that apply for a two-year period. They enable certain changes to be made to any EU sanctions regimes that have been retained by the EU (Withdrawal) Act 2018 and have not been replaced by a UK sanctions regime contained in regulations made under section 1. These powers are aimed at ensuring that EU sanctions regimes can be updated for a short period after exit from the EU, until they are replaced by UK regimes, and are limited to enabling Ministers to add or remove names from lists of persons who are designated by virtue of their inclusion in a list attached to an EU instrument. These powers do not enable the substantive sanctions in retained EU law to be amended. Any such provision would require regulations under section 1. This power would be used alongside the powers in the EU (Withdrawal) Act 2018 to make retained EU law operable after the UK leaves the EU.

### Section 35: Directions under section 34: further provision

105 This section sets out the conditions for adding a person's name to an EU sanctions list (except UN-named persons). The conditions reflect the conditions for designation of persons under sections 11 and 12. However, instead of having regard to the provisions in UK regulations, the Minister has to have regard to the purposes of the EU legislation (as set out in a set of regulations made under this section).

106 For a Minister to treat a person as if they had been added to an EU sanctions list, the Minister must consider it appropriate to do so, having regard to the purpose of the EU legislation and to the likely significant effects of the designation on the person, as far as known.

107 The Minister must inform the designated person of their designation as soon as reasonable practicable, including a statement of reasons for the designation, though there is no need for a designated person to be notified in advance of any designation coming into effect.

## Section 36: Rights of person on EU sanctions list

108 This section enables persons who are designated under a retained EU sanctions list to make a request to be removed from that list. Where such a request is made it must be granted where the conditions of section 35(1) are not met, namely that the appropriate Minister does not have reasonable grounds to suspect the designated person is an “involved person” (see sections 35(2) and (3)), or does not consider it appropriate for the person to be designated. The decision must be made as soon as reasonably practicable after the appropriate Minister receives the necessary information to make the decision, and the person who made the request must be informed as soon as reasonably practicable after the decision is made.

## Section 37: Rights of UN-named person on EU sanctions list

109 Where a person is on a retained EU sanctions list by virtue of a UN Security Council resolution, the procedure for seeking removal from that list reflects the procedure in section 25; namely, that they can only make a request to the appropriate Minister to use best endeavours to remove their name from the relevant UN list. This section reflects the fact that the UK is under a binding obligation in international law to designate the person, and the obligation persists until the designation is lifted by the UN itself.

## Chapter 4: Court reviews

### Section 38: Court review of decisions

110 This section ensures that those who do not agree with a decision made under Part 1 of the Act have a route to challenge a government decision in the courts. These decisions include:

- a. an administrative reassessment of a UK designation, under section 23;
- b. a UK government review of a UK designation, under section 24;
- c. an administrative reassessment of a UN designation, under section 25;
- d. an administrative reassessment of a retained EU designation, under section 36 or 37;
- e. an administrative reassessment of a UK-specified ship, under section 27;
- f. a UK government review of a UK-specified ship, under section 28; or
- g. an administrative reassessment of a UN-specified ship, under section 29.

111 When considering an application brought under this section, the courts will apply the principles of judicial review.

112 If a designated person seeks a revocation or variation of their listing, they must apply for this through the mechanism provided for in the relevant sections above in the first instance, before they are able to access the redress through a legal challenge provided for in this section. This provision helps to ensure that quick redress is available to the designated person and seeks to minimise unnecessary litigation, on the part of both the designated person and the government. The same applies to reassessments in relation to specified ships.

### Section 39: Court reviews: further provision

113 This section contains some additional provisions about how legal challenges are to be dealt with by the courts. It provides that where a court would otherwise have the power to award damages (for example, by virtue of the Senior Courts Act 1981 for England and Wales), it may not do so unless they consider that the use of the power under challenge amounts to committing the tort of negligence (or for Scotland, that there has been negligence), or there has been bad faith. This approach is comparable with the current law on awards of damages in sanctions cases within the EU. This section also confirms that legal challenges are to be dealt with under the provisions in section 38.

## Section 40: Rules of court

114 This section sets out that the closed material procedure provided for in the Counter Terrorism Act 2008 may be used in respect of legal challenges under this Act. This means that in such challenges, the government may apply to the court for sensitive material to be disclosed only to special advocates and the court, on the basis of this being in the public interest. This would enable the government to use sensitive information to support the imposition of sanctions on persons without the additional risks posed by more open disclosure of such material. This section also sets out how, on the first occasion that the Lord Chancellor makes rules of court (which set out the court's procedure) about the use of the closed material procedure in relation to challenges under section 38, the Lord Chancellor must consult the relevant heads of the judiciary in England and Wales, and in Northern Ireland. In Scotland, the power to make rules of court resides in the Court of Session, and this section makes no provision in respect of those rules.

## Chapter 5: Miscellaneous

### Section 41: Procedure for dealing with goods etc seized from ships

115 This section provides a power for the Secretary of State to make regulations setting out how goods seized from ships (see sections 19 and 20) are to be dealt with.

### Section 42: Suspension of prohibitions and requirements

116 This section allows sanctions regulations, or specific restrictions within sanctions regulations, to be suspended for a period of time, during which they would remain on the statute book but not be binding within the UK. This allows flexibility in circumstances where sanctions might need to be temporarily lifted or altered, but where it might not be appropriate to revoke sanctions regulations completely. For example, if a state which was subject to sanctions had altered its behaviour and this warranted the sanctions being suspended to reward that behaviour, or in order to take agreed steps so that they could be lifted, an appropriate Minister could suspend the regulations but still retain the ability, should the state in question revert to its previous behaviour or fail to meet a specified condition, to apply the regulations again quickly.

### Section 43: Guidance about regulations under section 1

117 The section imposes a duty on an appropriate Minister who makes sanctions regulations to issue guidance about those sanctions regulations. The guidance may include best practice for compliance with sanctions, details about enforcement, and details of relevant exceptions.

### Section 44: Protection for acts done for purposes of compliance

118 This section ensures that a person who may have been liable to civil proceedings as a result of compliance with the regulations contained within the Act is not liable if they reasonably believe that they were acting in compliance with regulations in place at the time. It aims to protect people from any adverse results generated by compliance (for example, a breach of a contract to supply goods that are prohibited from export by sanctions).

### Section 45: Revocation and amendment of regulations under section 1

119 This section makes provision for the revocation or amendment of regulations made under section 1. The regulations as amended must continue to be appropriate for their stated purpose. Unless they are made for the purposes of compliance with a UN or other international obligation, the Minister must also consider that there are good reasons to pursue the stated purpose of the regulations and that the imposition of sanctions is a reasonable course of action for that purpose. The section also enables references to UN obligations to be updated.

## Section 46: Report where regulations for a purpose within section 1(2) are amended

120 This section mandates the appropriate Minister to lay before Parliament a report setting out the reasons referred to in section 45 above. The Minister does not have to disclose anything which might damage national security or international relations.

## Section 47: Power to amend Part 1 so as to authorise additional sanctions

121 This section allows an appropriate Minister to amend Part 1 of the Act through regulations to add different types of sanctions not yet listed within Chapter 1 of the Act. It can only be used for types of sanctions that the UK is or has been under a UN or other international obligation to impose. It does not enable any modification to be made to the purposes for which sanctions can be made. This section future-proofs the Act against a changing sanctions landscape, by enabling new sanctions measures agreed internationally to be brought within the scope of the Act. The regulations must follow the draft affirmative procedure.

## Section 48: Power to make provision relating to immigration appeals

- 122 The imposition of a travel ban on a designated person has consequences for their immigration status. Those who are in the UK will lose the right to remain here and may be subject to removal from the UK. As a result, they may claim asylum or humanitarian protection, or claim that removal will breach their human rights. Those who are outside the UK will be refused entry if they seek to travel here. They may claim that this breaches their human rights.
- 123 These “immigration claims” are usually decided by the Secretary of State for the Home Department. The making of an asylum claim also has further effects under the Immigration Acts, such as the ability to access financial support. A decision on an immigration claim by the Secretary of State for the Home Department can give rise to a right of appeal before the Immigration and Asylum Chamber of the First Tier Tribunal, a specialist tribunal with expertise in deciding such claims.
- 124 The Government recognises that the proper decision maker in respect of an immigration claim is the Secretary of State for the Home Department, and the proper venue for deciding an appeal related to an immigration claim is the Tribunal. However, there is an overlap between these immigration claims and claims that can be made under the review and challenge mechanisms in the Act.
- 125 This section gives a power to the Secretary of State to make regulations setting out the mechanisms by which the immigration consequences of sanctions will be considered. These regulations will ensure that immigration claims are sent to the Secretary of State for the Home Department for decision, and appeals against such decisions are made to the Tribunal for resolution. This will ensure that immigration consequences which engage the UK’s obligations under the European Convention on Human Rights and the Refugee Convention will continue to be dealt with by those parts of government and Her Majesty’s Courts and Tribunals Service that are best equipped to deal with them. Finally, the power enables any consequential amendments to legislation, including primary legislation, that such provisions require. Regulations made under this power will use the draft-affirmative procedure.

## Part 2: Anti-Money Laundering

### Section 49: Money laundering and terrorist financing etc

126 This section enables Ministers to make regulations about money laundering and terrorist financing. Further details of certain types of provision that can be made using these powers are given in Schedule 2, explained below. This section also enables Ministers to make regulations to implement the international standards set by FATF, an international body tasked with setting standards in this area, of which the UK is a leading member. Regulations made using this power



will be subject to the draft-affirmative procedure except where it is used solely for the purpose of updating a list of high risk third countries in relation to which enhanced due diligence measures are required (which will be done by way of made-affirmative procedure, so that the enhanced due diligence requirements apply without any delay).

127 This section gives the appropriate Minister a legal power to make, amend and repeal secondary legislation relating to anti-money laundering and counter-terrorist financing after the UK ceases to be a member of the EU. The most recent major EU-wide reform of such legislation was the Fourth EU Money Laundering Directive 2015/849/EC (4MLD), which entered into force in June 2015. In June 2017, the UK transposed 4MLD into national law under powers conferred by section 2(2) of the European Communities Act 1972, by enacting the Money Laundering Regulations 2017. The power provided for in this section gives the appropriate Minister (following withdrawal from the EU) a legal power to amend domestic legislation transposing such EU law.

128 This power also ensures that the UK can continue to comply with the international standards set by FATF and address emerging risks relating to money laundering and terrorist financing. For these purposes money laundering and terrorist financing are defined by reference to existing statutory definitions set out in the Proceeds of Crime Act 2002; the Terrorism Act 2000; the Anti-terrorism, Crime and Security Act 2001; the Terrorist Asset-Freezing etc. Act 2010; and the ISIL (Da'esh) and Al-Qaida (Asset-Freezing) Regulations 2011.

### Section 50: Reports on progress towards register of beneficial owners of overseas entities

129 This section requires the Secretary of State to publish and lay before Parliament three reports on the progress that has been made to put in place a register of beneficial owners of overseas entities. Each report is due after the expiry of a 12 month reporting period. The first period began upon Royal Assent. The first and second report must set out the steps that will be taken in the next reporting period towards putting the register in place and an assessment as to when the register will be put in place. The third and final report must include a statement setting out what further steps, if any, are to be taken towards putting the register in place.

### Section 51: Public registers of beneficial ownership of companies registered in British Overseas Territories

130 This section requires the Secretary of State to provide all reasonable assistance to the governments of British Overseas Territories to enable them to establish publicly accessible registers of beneficial ownership of companies, and, no later than 31 December 2020, prepare a draft Order in Council requiring the government of any such Territory that has not introduced such a register to do so.

## Part 3: General

### Section 52: Crown application

131 This section provides that sanctions regulations and regulations under section 49 may make provision binding the Crown, although they may not make the Crown criminally liable. Nothing in this Act affects Her Majesty in Her private capacity.

### Section 53: Saving for prerogative powers

132 This section ensures that the provisions of the Act do not abrogate or modify any prerogative power to exclude individuals from the UK. It also ensures that powers in the Act which may be exercised in relation to ships, including those in sections 19 and 20, would not limit powers which may be exercised in relation to ships by virtue of the Royal prerogative.

## Section 54: Regulations: general

133 This section sets out the types of provision which may be made by regulations made under the powers provided by this Act. It enables the appropriate Minister to make consequential provision such as repealing, revoking or otherwise amending existing legislation. It also provides that regulations made under section 1 may only amend the definition of "terrorist financing" in the Act to add a reference to an offence where the purpose of the regulations containing the offence is compliance with a UN or other international obligation or a purpose related to the prevention of terrorism.

## Section 55: Parliamentary procedure for regulations

134 This section lays out the Parliamentary procedures to be used for regulations made under the Act. Regulations would be made using three types of procedure.

135 Sanctions regulations made under section 1 which do not deal with the implementation of UN Security Council resolutions, and which are not mentioned in paragraph 136 below, will use the made-affirmative procedure. This procedure ensures that the regulations are able to come into force immediately, to prevent asset flight, but still requires Parliament to approve the regulations. The regulations will cease to have effect if both Houses of Parliament have not voted to approve them within 28 days of them being laid. The made-affirmative procedure also applies to money-laundering regulations (made under section 49) that make new provision about high-risk countries.

136 Regulations which repeal, revoke or amend any provision of primary legislation, or which authorise sanctions not covered by Chapter 1 (under section 47), or which set out procedures to deal with immigration decisions (under section 48), and money laundering regulations not mentioned in paragraph 135 above, will be subject to the draft-affirmative procedure. This procedure requires the approval of both Houses before the regulations can come into force.

137 Other regulations, except those dealing with commencement, will be subject to the negative procedure. Such regulations will remain in force unless either of the Houses annuls the regulations by passing a resolution against them.

## Section 56: Regulations under section 1: transitory provision

138 This section allows Ministers to make regulations subject to slightly different procedures than those set out in section 55 if they consider it appropriate to do so as a result of or in connection with the withdrawal of the United Kingdom from the EU, for example in the case when a UK regime replaces an EU regime.

139 In those circumstances, sanctions regulations may provide that they will be brought into force on the day that Ministers specify in further regulations. This will allow flexibility for the sanctions regulations to be brought into force at the appropriate time.

140 Where this mechanism is used for any regulations subject to the made-affirmative procedure, the period for each House to vote to approve them (without which they will cease to have effect) will be 60 days rather than 28. The 60 day period specified by the made-affirmative procedure will start to run from the appointed date rather than the date of making.

## Section 57: Duties to lay certain reports before parliament: further provision

141 This section enables certain reports relating to the regulations to be combined in one document, requires a written statement to be made by the Minister if reporting requirements are not complied with, and clarifies how those requirements apply.

## Section 58: Retained EU rights

142 This section is consequential on provisions in the European Union (Withdrawal) Act 2018. It makes clear that any restrictions in that Act on the modification of retained EU law do not prevent powers under this Act (for example, powers to impose an asset-freeze or immigration sanction) from being exercised in cases where their exercise would interfere with a retained right that a person would otherwise have under section 4 of the European Union (Withdrawal) Act 2018.

## Section 59: Consequential amendments and repeals

143 This section repeals most of Part 1 of the Terrorist Asset Freezing etc. Act 2010. It also makes various consequential amendments and repeals, as set out in Schedule 3.

## Section 60: Meaning of “funds”, “economic resources” and “freeze”

144 Subsection (1) defines “funds” as financial assets and benefits of any kind. It sets out a list of examples; this list is not exhaustive, and any form of financial assets which do not appear on the list will still be subject to sanctions if they are a financial asset or benefit to the designated person. By targeting “funds” as defined here, sanctions can effectively cut off a designated person’s revenue stream or access to assets.

145 Subsection (2) defines “economic resources”, and provides the government with the ability to restrict access to any type of asset which would not be covered under “funds”. Economic resources means assets of every kind – tangible or intangible, movable or immovable – which are not funds, but may be used to obtain funds, goods or services.

146 Subsection (3) defines the meaning of “freezing” of funds. Freezing funds prevents the designated person from dealing with funds in any way, including for example moving funds (for example from one account to another), changing their worth or ownership, or any use whatsoever.

147 Subsection (4) explains the application of “freezing” to economic resources which fall outside of the definition of funds, such as property or other assets. It prevents these goods from being “dealt with”. Regulations made under the Act will define what is meant by ‘making available’ funds and economic resources.

## Section 61: Meaning of “financial services” and “financial products”

148 Subsection (1) defines “financial services” as any service of a financial nature. It sets out a non-exhaustive list of examples; any forms of financial service which do not appear on the list will still be subject to sanctions if they are utilised to move funds which are subject to sanctions or to move, transfer or increase the wealth of the designated person or associated entities. “Financial products” are defined by reference to a number of different types of financial product, including transferable securities and money market instruments.

## Section 62: Interpretation

149 This section sets out the meanings of various terms used in the Act and is self-explanatory.

## Section 63: Extent

150 This section provides that, with some minor exceptions, the Act extends to England and Wales, Scotland, and Northern Ireland (subsection (2) sets out those provisions which do not extend to Scotland or Northern Ireland). It also allows for Her Majesty, by Order in Council, to extend the provisions of Part 1 and Part 3 of the Act, or any regulations made under Part 1 of the Act, with or without modifications, to any of the Channel Islands, the Isle of Man, or any of the British Overseas Territories.

## Section 64: Commencement

151 This section sets out when the provisions in the Act come into force. Sections 32, 50, 52 to 56, and 60 and 65 came into force on the day on which the Act became an Act of Parliament. The remaining sections come into force on a day appointed by the Secretary of State.

## Section 65: Short title

152 This section is self-explanatory.

# Schedules

## Schedule 1: Trade sanctions

153 Schedule 1 provides further detail on trade sanctions that can be put in place.

### **Part 1 - Trade sanctions**

154 Part 1 of the schedule sets out the different types of trade sanctions.

155 Paragraph 2 deals with the export of specified goods. Regulations may provide for the prevention of exports to, or for the benefit of, prescribed countries, and for exports to, or for the benefit of, three categories of persons. These three categories are used throughout the schedule and cover:

- a. designated persons (see section 9);
- b. persons connected with a country prescribed in the regulations. Section 62(6) specifies that regulations can set out the nature of the connection between the persons and the prescribed country. This category could capture all persons connected to a country in a specified way;
- c. a prescribed description of persons connected with a prescribed country. Section 62(6) specifies that regulations can set out the nature of the connection between them and the prescribed country. This category could capture groups of persons connected to a country in a specified way.

156 Paragraph 3 deals with imports of goods. Amongst other things, regulations may prohibit the import of goods originating or consigned from a prescribed country. This can cover goods originating in a prescribed country that are routed through a third country and vice versa. "Origin" is defined in paragraph 35(b).

157 Paragraph 4 deals with movement of specified goods outside the UK. An example of a measure falling under this power would be a prohibition on the brokering of military goods from outside the UK to a prescribed country.

158 Paragraph 5 is about transfer of specified technology. Technology in this case is defined in paragraph 37, and refers in general to information and software. An example of a measure falling under this power would be a prohibition on the transfer of military technology to a prescribed country.

159 Paragraphs 6 and 7 provide that sanctions regulations can prevent specified goods or technology from being made available or acquired. "Making available" in this sense is intended to cover situations other than export where goods are made available. It could include the gifting, delivery or disposal of goods and technology. "Acquisition" is defined in paragraph 35(a).

160 Paragraphs 8 and 9 are about preventing land from being made available or acquired. An example of a measure falling under this power would be a prohibition on the purchase of land in a prescribed country.

- 161 Paragraph 10 is about restricting activities that relate to military activities. An example of a measure falling under this power would be a prohibition on the provision of technical assistance relating to military activities in a prescribed country.
- 162 Paragraphs 11 to 14 deal with provision and procurement of services. An example of a measure falling under this power would be a prohibition on the provision of services related to a specific industry in a prescribed country.
- 163 Paragraphs 13 and 14 make clear that the sanctions regulations can restrict services that are connected to other sanctions prohibitions or connected to particular projects, industries, sectors, infrastructure, aircraft, ships, services or other activities. An example of a measure falling under this power would be a prohibition on the provision of technical assistance relating to the export of military goods to a prescribed country.
- 164 Paragraph 15 makes clear that sanctions regulations can place restrictions on goods, technology and services connected with vessels that are designated under UN Security Council resolutions.
- 165 Paragraph 16 provides that sanctions regulations can deal with objects of cultural interest. An example of a measure falling under this power would be a prohibition on the purchase of objects of cultural interest that have been removed from a prescribed country.

## **Part 2 - Further provision**

- 166 Part 2 of the schedule makes further provision about trade sanctions.
- 167 Paragraphs 17 to 20 are about how goods, services and technology can be described in sanctions regulations. For example, paragraph 17 makes clear that goods may be described by reference to a use to which they may be put, the types of users of the goods, the industries, sectors, infrastructure or projects to which they may relate or the place where they originate.
- 168 Paragraphs 21 to 23 make clear that the sanctions regulations can include cross-references to other legislation and lists. This would serve to make it easier to interpret sanctions regulations. This includes references to orders made under the Export Control Act 2002 (paragraph 21), to EU lists (paragraph 22) and to other technical lists, including those related to the UK's UN obligations (paragraph 23).
- 169 Paragraphs 24 and 25 make clear that the movement of vehicles, ships and aircraft under their own power may be counted as exports or imports.
- 170 Paragraph 26 enables vessels to be described by reference to a UN instrument on an ambulatory basis.
- 171 Paragraph 27 allows regulations to modify, up to a maximum of 10 years, the period of imprisonment in relation to offences under the Customs and Excise Management Act 1979.
- 172 Paragraph 28 enables sanctions regulations to modify provisions of the Customs and Excise Management Act 1979 that apply in relation to the enforcement of prohibitions or requirements contained in sanctions regulations.
- 173 Paragraph 29 specifies that regulations made under Part 1 of Schedule 1 may not have the effect of prohibiting or regulating certain specified activities, unless the interference by the regulations in the freedom to carry on the activity in question is necessary (and no more than necessary).
- 174 Paragraph 30 states that it is for the appropriate Minister to determine that any interference in any of the activities described in paragraph 29 is necessary, in light of the circumstances prevailing at the time, having considered the reasons for seeking to control the activity in question and the need to respect the freedom to carry on the activity.

- 175 Paragraph 31 specifies that references to goods, technology, land, or services being moved, made available, acquired, provided, procured or received are reference to those things being done directly or indirectly.
- 176 Paragraphs 32 and 33 define ‘export’ and ‘import’ for the purposes of the Schedule, and specify that goods moved between the Isle of Man and the United Kingdom are not to be regarded as exports or imports. This is due to the fact that the Isle of Man forms part of a joint customs area with the United Kingdom. This is in line with section 11(3) of the Export Control Act 2002 and section 8(1)(a) of the Import, Export and Customs Powers (Defence) Act 1939.
- 177 Paragraph 34 specifies that goods imported into the Isle of Man in contravention of a prohibition, where a corresponding prohibition applies to the import of goods of that kind to the UK pursuant to a purpose mentioned in paragraph 3, may be regarded as imported if they are subsequently moved from the Isle of Man to the United Kingdom.
- 178 Paragraphs 35 to 37 define certain terms and are self-explanatory.
- 179 Paragraph 38 makes clear that references to services in Schedule 1 may include financial services.

## Schedule 2: Money laundering and terrorist financing etc

- 180 Schedule 2 provides further detail on the scope of the regulations that can be made under section 49 (relating to money laundering and terrorist financing). Paragraph 1 of Schedule 2 makes express provision that regulations made under section 49 may do anything mentioned in paragraphs 2 to 17. These paragraphs cover the broad topics addressed in the Money Laundering Regulations 2017. The Money Laundering Regulations 2017 are the main legislation that transposes 4MLD (and the enforcement provisions of the associated Funds Transfer Regulation 2015/847/EC) into UK law.
- 181 The effect of paragraphs 1 to 17 of Schedule 2 is that regulations made under section 49 may make provisions addressing similar topics to those addressed in the Money Laundering Regulations 2017. Paragraph 7, for example, confirms that regulations made under section 49 can confer supervisory functions on the Financial Conduct Authority (FCA), Her Majesty’s Revenue and Customs (HMRC) and other prescribed bodies and gives a non-exhaustive list of powers or duties that could be conferred on such supervisory authorities. Paragraph 13 establishes that only the FCA and HMRC may impose civil monetary penalties for breach of regulations made under section 49, preserving the existing position within the Money Laundering Regulations 2017. Paragraph 1 also confirms that such regulations may also address topics other than those set out in paragraphs 2-17 provided that they fall within the scope of section 49. Paragraph 22 confirms that regulations made under section 49 may impose requirements in relation to conduct outside the UK by a UK natural or legal person. This is a continuation of the policy position under the Money Laundering Regulations 2017, and captures – for example – instances where a person in an overseas branch of a UK firm commits an offence under regulations made for the purpose of preventing money laundering.
- 182 Paragraph 23 confirms that regulations made under section 49 may, subject to any modifications that the appropriate Minister considers appropriate, make provision corresponding or similar to the Money Laundering Regulations 2017, the EU Funds Transfer Regulation and any provision made under 4MLD (as these have effect immediately prior to the UK’s withdrawal from the EU). Paragraph 23(1)(b) confirms that regulations made under section 49 can be used to amend or revoke such legislation.
- 183 Paragraph 24 defines certain terms used in section 49 and Schedule 2. In particular, it confirms that the definitions of “money laundering” and “terrorist financing” have the meaning currently used in the Money Laundering Regulations 2017.

### Schedule 3: Consequential amendments

184 Part 1 of this Schedule makes some changes to existing primary legislation, as follows.

#### **Part 1 – Amendments consequential on Part 1**

185 Paragraph 1 amends section 8B of the Immigration Act 1971 by making changes which enable the implementation of travel bans imposed under the Act.

186 Paragraph 2 amends Schedule 1 of the Senior Courts Act 1981 to assign legal challenges under section 33 to the Queen’s Bench Division of the High Court.

187 Paragraph 3 amends the Regulation of Investigatory Powers Act 2000 to enable material obtained under powers in that Act to be used in court proceedings relating to legal challenges under section 33.

188 Paragraph 4 amends the Serious Organised Crime and Police Act 2005 to enable the powers in that Act to be used to investigate offences under regulations made under section 1 (“sanctions offences”).

189 Paragraph 5 amends Schedule 1 of the Serious Crime Act 2007 to allow serious crime prevention orders to be obtained in respect of sanctions offences.

190 Paragraph 6 amends Schedule 17 of the Crime and Courts Act 2013 by including a sanctions offence as an offence in relation to which a deferred prosecution agreement may be entered into.

191 Paragraph 7 amends Schedule 3 of the Investigatory Powers Act 2016 to enable material obtained under powers in that Act to be used in court proceedings relating to challenges under section 38.

192 Paragraph 8 amends the Policing and Crime Act 2017 so that the power in section 143 of that Act to impose a civil monetary penalty will continue to apply to financial sanctions made under the Act.

193 Paragraph 8(4) omits sections 152 to 156 of the Policing and Crime Act 2017. These powers enable the government to make temporary provisions to implement UN financial sanctions without delay, so that there is no implementation gap between the UN agreeing these sanctions and the EU adopting them. Once the Act is in force these powers will no longer be necessary, since the powers in this Act will enable UN sanctions to be implemented by the UK directly.

## **Part 2 – Repeals etc consequential on repeal of Terrorist Asset-Freezing etc Act 2010**

194 Part 2 of this Schedule repeals and revokes certain legislative provisions consequential on the repeal of Part 1 of the Terrorist Asset-Freezing etc Act 2010.

## **Commencement**

195 Section 64 provides that the powers contained within this Act commence on a day set out in regulations, with the exception of sections 32, 50, 52 to 56, and 60 to 65, which came into force on the day on which the Act became an Act of Parliament.

## **Related documents**

196 The following documents are relevant to the Act and can be read at the stated locations:

- White Paper: <https://www.gov.uk/government/consultations/public-consultation-on-the-united-kingdoms-future-legal-framework-for-imposing-and-implementing-sanctions>
- Consultation Response: <https://www.gov.uk/government/consultations/public-consultation-on-the-united-kingdoms-future-legal-framework-for-imposing-and-implementing-sanctions>
- Impact Assessment: <https://www.parliament.uk/documents/impact-assessments/IA17-009.pdf>
- Delegated Powers Memorandum: <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/18069-DPM.pdf>
- Immigration Act 1971: <http://www.legislation.gov.uk/ukpga/1971/77/contents>
- The European Communities Act 1972: <http://www.legislation.gov.uk/ukpga/1972/68/contents>
- The Anti-Terrorism, Crime and Security Act 2001: <http://www.legislation.gov.uk/ukpga/2001/24/contents>
- The Export Control Act 2002: <http://www.legislation.gov.uk/ukpga/2002/28/contents>
- The Proceeds of Crime Act 2002: <https://www.legislation.gov.uk/ukpga/2002/29/contents>
- The Counter-Terrorism Act 2008: <http://www.legislation.gov.uk/ukpga/2008/28/contents>
- The Terrorist Asset-Freezing etc Act 2010: <http://www.legislation.gov.uk/ukpga/2010/38/contents>
- The Crime and Courts Act 2013: <http://www.legislation.gov.uk/ukpga/2013/22/contents>

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- The Criminal Finances Act 2017:  
<http://www.legislation.gov.uk/ukpga/2017/22/contents/enacted>
- The Policing and Crimes Act 2017:  
<http://www.legislation.gov.uk/ukpga/2017/3/contents>
- The European Union (Withdrawal) Act 2018:  
<http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>

## Annex A - Glossary

<b>Draft-affirmative procedure</b>	Statutory Instruments that are subject to the "draft-affirmative procedure" require the approval of both Houses of Parliament before they have effect.
<b>Made-affirmative procedure</b>	Statutory Instruments that are subject to the "made-affirmative procedure" become effective immediately, but require the approval of both Houses of Parliament within a certain period. It allows powers to be exercised quickly.
<b>Negative procedure</b>	Statutory instruments that are subject to the "negative procedure" automatically become effective unless they are annulled by either the House of Commons or the House of Lords.
<b>Orders in Council</b>	Orders in Council are used when an ordinary statutory instrument would be inappropriate, such as for transferring responsibilities between government departments. They are issued by and with the advice of HM Privy Council and are approved in person by the monarch. Orders in Council were used to transfer powers from Ministers of the UK government to the devolved governments. They are used to extend UK legislation to the Crown Dependencies and British Overseas Territories.
<b>Regulations</b>	Regulations are a form of Statutory Instrument (SIs).
<b>Statutory Instrument (SI)</b>	Statutory instruments are a type of delegated (or secondary) legislation. They can be used to make specific changes to the law under powers from an existing Act of Parliament, without Parliament having to pass a new Act.

## Annex B - Territorial extent and application in the United Kingdom

This Act applies to the whole of the UK.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Sections 1 to 65 and the Schedules	Yes	Yes	Yes	Yes

## Annex C - Hansard References

197 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Lords</i>		
Introduction	18 October 2017	<a href="#">Vol. 785 Col. 617</a>
Second Reading	1 November 2017	<a href="#">Vol. 785 Col. 1373</a>
Grand Committee [of the whole house]	21 November 2017	<a href="#">Vol. 787 Col. 106</a>
	29 November 2017	<a href="#">Vol. 787 Col. 690</a>
	6 December 2017	<a href="#">Vol. 787 Col. 1060</a>
	12 December 2017	<a href="#">Vol. 787 Col. 1498</a>
Report	15 January 2018	<a href="#">Vol. 788 Col. 439</a>
	17 January 2018	<a href="#">Vol. 788 Col. 669</a>
Third Reading	24 January 2018	<a href="#">Vol. 788 Col. 1025</a>
<i>House of Commons</i>		
Introduction	25 January 2018	<a href="#">Votes and Proceedings No. 86 of 2017-19</a>
Second Reading	20 February 2018	<a href="#">Vol. 636 Col. 77</a>
Public Bill Committee	27 February 2018	<a href="#">PBC (Bill 157) 2017-2019</a>
	1 March 2018	
	6 March 2018	
Report and Third Reading	1 May 2018	<a href="#">Vol. 640 Col. 171</a>
Lords Consideration of Commons Amendments	21 May 2018	<a href="#">Vol. 791 Col. 898</a>
Royal Assent	23 May 2018	House of Commons <a href="#">Vol. 641 Col. 902</a>
		House of Lords <a href="#">Vol. 791 Col.1023</a>

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## Annex D - Progress of Bill Table

198 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as Introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as amended on Report in the Commons
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2			Clause 2	Clause 2	Clause 2	Clause 2
Section 3	Clause 2	Clause 2	Clause 3	Clause 3	Clause 3	Clause 3
Section 4	Clause 3	Clause 3	Clause 4	Clause 4	Clause 4	Clause 4
Section 5	Clause 4	Clause 4	Clause 5	Clause 5	Clause 5	Clause 5
Section 6	Clause 5	Clause 5	Clause 6	Clause 6	Clause 6	Clause 6
Section 7	Clause 6	Clause 6	Clause 7	Clause 7	Clause 7	Clause 7
Section 8	Clause 7	Clause 7	Clause 8	Clause 8	Clause 8	Clause 8
Section 9	Clause 8	Clause 8	Clause 9	Clause 9	Clause 9	Clause 9
Section 10	Clause 9	Clause 9	Clause 10	Clause 10	Clause 10	Clause 10
Section 11	Clause 10	Clause 10	Clause 11	Clause 11	Clause 11	Clause 11
Section 12	Clause 11	Clause 11	Clause 12	Clause 12	Clause 12	Clause 12
Section 13	Clause 12	Clause 12	Clause 13	Clause 13	Clause 13	Clause 13
Section 14	Clause 13	Clause 13	Clause 14	Clause 14	Clause 14	Clause 14
Section 15	Clause 14	Clause 14	Clause 15	Clause 15	Clause 15	Clause 15
Section 16	Clause 15	Clause 15	Clause 16	Clause 16	Clause 16	Clause 16
Section 17	Clause 16	Clause 16	Clause 17	Clause 17	Clause 17	Clause 17
Section 18					Clause 18	Clause 18
Section 19						Clause 19
Section 20						Clause 20
Section 21	Clause 17	Clause 17	Clause 18	Clause 18	Clause 19	Clause 21
Section 22	Clause 18	Clause 18	Clause 19	Clause 19	Clause 20	Clause 22
Section 23	Clause 19	Clause 19	Clause 20	Clause 20	Clause 21	Clause 23
Section 24	Clause 20	Clause 20	Clause 21	Clause 21	Clause 22	Clause 24
Section 25	Clause 21	Clause 21	Clause 22	Clause 22	Clause 23	Clause 25
Section 26	Clause 22	Clause 22	Clause 23	Clause 23	Clause 24	Clause 26
Section 27	Clause 23	Clause 23	Clause 24	Clause 24	Clause 25	Clause 27
Section 28	Clause 24	Clause 24	Clause 25	Clause 25	Clause 26	Clause 28
Section 29	Clause 25	Clause 25	Clause 26	Clause 26	Clause 27	Clause 29
Section 30	Clause 26	Clause 26	Clause 27	Clause 27	Clause 28	Clause 30

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<b>Section of the Act</b>	<b>Bill as Introduced in the Lords</b>	<b>Bill as amended in Committee in the Lords</b>	<b>Bill as amended on Report in the Lords</b>	<b>Bill as introduced in the Commons</b>	<b>Bill as amended in Committee in the Commons</b>	<b>Bill as amended on Report in the Commons</b>
Section 31						Clause 31
Section 32						Clause 32
Section 33	Clause 27	Clause 27	Clause 28	Clause 28	Clause 29	Clause 33
Section 34	Clause 28	Clause 28	Clause 29	Clause 29	Clause 30	Clause 34
Section 35	Clause 29	Clause 29	Clause 30	Clause 30	Clause 31	Clause 35
Section 36	Clause 30	Clause 30	Clause 31	Clause 31	Clause 32	Clause 36
Section 37	Clause 31	Clause 31	Clause 32	Clause 32	Clause 33	Clause 37
Section 38	Clause 32	Clause 32	Clause 33	Clause 33	Clause 34	Clause 38
Section 39	Clause 33	Clause 33	Clause 34	Clause 34	Clause 35	Clause 39
Section 40	Clause 34	Clause 34	Clause 35	Clause 35	Clause 36	Clause 40
Section 41						Clause 41
Section 42	Clause 35	Clause 35	Clause 36	Clause 36	Clause 37	Clause 42
Section 43	Clause 36	Clause 36	Clause 37	Clause 37	Clause 38	Clause 43
Section 44	Clause 37	Clause 37	Clause 38	Clause 38	Clause 39	Clause 44
Section 45	Clause 38	Clause 38	Clause 39	Clause 39	Clause 40	Clause 45
Section 46			Clause 40	Clause 40	Clause 41	Clause 46
Section 47	Clause 39	Clause 39	Clause 41	Clause 41	Clause 42	Clause 47
Section 48	Clause 40	Clause 40	Clause 42	Clause 42	Clause 43	Clause 48
Section 49	Clause 41	Clause 41	Clause 43	Clause 43	Clause 44	Clause 49
Section 50				Clause 44	Clause 45	Clause 50
Section 51						Clause 51
Section 52	Clause 42	Clause 42	Clause 44	Clause 45	Clause 46	Clause 52
Section 53	Clause 43	Clause 43	Clause 45	Clause 46	Clause 47	Clause 53
Section 54	Clause 44	Clause 44	Clause 46	Clause 47	Clause 48	Clause 54
Section 55	Clause 45	Clause 45	Clause 47	Clause 48	Clause 49	Clause 55
Section 56	Clause 46	Clause 46	Clause 48	Clause 49	Clause 50	Clause 56
Section 57					Clause 51	Clause 57
Section 58						Clause 58
Section 59	Clause 47	Clause 47	Clause 49	Clause 50	Clause 52	Clause 59
Section 60	Clause 48	Clause 48	Clause 50	Clause 51	Clause 53	Clause 60
Section 61	Clause 49	Clause 49	Clause 51	Clause 52	Clause 54	Clause 61
Section 62	Clause 50	Clause 50	Clause 52	Clause 53	Clause 55	Clause 62
Section 63	Clause 51	Clause 51	Clause 53	Clause 54	Clause 56	Clause 63
Section 64	Clause 52	Clause 52	Clause 54	Clause 55	Clause 57	Clause 64

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Section 65	Clause 53	Clause 53	Clause 55	Clause 56	Clause 58	Clause 65
Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1
Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2
Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3

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