



Economic Crime (Transparency and Enforcement) Act 2022

2022 CHAPTER 10

PART 3

SANCTIONS

CHAPTER 2

IMPOSITION OF SANCTIONS ETC

Sanctions regulations

57 Streamlining process of making sanctions regulations

- (1) The Sanctions and Anti-Money Laundering Act 2018 (referred to in this Chapter as the “2018 Act”) is amended as follows.
- (2) In section 1 (power to make sanctions regulations) omit subsection (4).
- (3) Omit section 2 (additional requirements for regulations for a purpose within section 1(2)).
- (4) In section 45 (revocation and amendment of regulations under section 1)—
 - (a) in subsection (2)—
 - (i) omit the “and” at the end of paragraph (a);
 - (ii) omit paragraph (b);
 - (b) omit subsections (3) to (5);
 - (c) in subsection (6) omit “, section 2”.

Designation

58 Urgent designation of persons by name

(1) Section 11 of the 2018 Act (designation of a person by name under a designation power) is amended in accordance with subsections (2) to (6).

(2) After subsection (1) insert—

“(1A) The regulations must contain provision for the Minister to be able to choose whether to designate a person under—

- (a) the standard procedure, or
- (b) the urgent procedure.”

(3) For subsection (2) substitute—

“(2) The regulations must provide that under the standard procedure the Minister is prohibited from designating a person by name except where condition A is met.

(2A) Condition A is that the Minister has reasonable grounds to suspect that that person is an involved person (see subsection (3)).

(2B) The regulations must provide that under the urgent procedure—

- (a) the Minister may designate a person by name where condition A is not met, but conditions B and C are met, and
- (b) the designation ceases to have effect at the end of the period of 56 days beginning with the day following the designation unless, within that period, the Minister certifies that—
 - (i) condition A is met, or
 - (ii) conditions B and C continue to be met.

(2C) The regulations must provide that, under the urgent procedure, in a case where the Minister makes a certification under subsection (2B)(b)(ii), the designation ceases to have effect at the end of the period of 56 days beginning with the day immediately following the period mentioned in subsection (2B)(b), unless within that period the Minister certifies that condition A is met.

(2D) Condition B is that relevant provision (whenever made) applies to, or in relation to, the person under the law of—

- (a) the United States of America;
- (b) the European Union;
- (c) Australia;
- (d) Canada;
- (e) any other country specified for the purposes of this paragraph in regulations made by an appropriate Minister.

(2E) Condition C is that the Minister considers that it is in the public interest to make designations under the urgent procedure.

(2F) For the purposes of condition B, relevant provision is provision that the Minister considers—

- (a) corresponds, or is similar, to the type of sanction or sanctions in the regulations under section 1, or

- (b) is made for purposes corresponding, or similar, to any purpose of any type of sanction or sanctions in the regulations under section 1.”
- (4) In subsection (7), after “by name” insert “under the standard procedure”.
- (5) After subsection (7) insert—
- “(7A) The regulations must, in relation to any case where the Minister designates a person by name under the urgent procedure, require the information given under the provision made under section 10(3) to include a statement—
- (a) that the designation is made under the urgent procedure,
 - (b) identifying the relevant provision by reference to which the Minister considers that condition B is met in relation to the person, and
 - (c) setting out why the Minister considers that condition C is met.
- (7B) The regulations must also provide that, in relation to any case where the Minister designates a person by name under the urgent procedure, the Minister must, after the end of the period mentioned in subsection (2B)(b), or if the Minister has made a certification under subsection (2B)(b)(ii) the period mentioned in subsection (2C), but otherwise without delay—
- (a) in a case where the designation ceases to have effect, take such steps as are reasonably practicable to inform the person that the designation has ceased to have effect, or
 - (b) in any other case, take such steps as are reasonably practicable to give the designated person a statement of reasons.”

(6) In subsection (8)—

 - (a) for “subsection (7)” substitute “subsections (7) and (7A)”;
 - (b) for “which have led the Minister to make the designation” substitute “—
 - (a) in the case of a designation under the standard procedure, which have led the Minister to make the designation, and
 - (b) in the case of a designation under the urgent procedure, as a result of which the designation does not cease to have effect at the end of the period mentioned in subsection (2B)(b) or (2C) (as the case may be).”

(7) In section 22 of the 2018 Act (power to vary or revoke designation made under regulations), in subsection (4), in paragraph (a)—

 - (a) for “11(2)” substitute “11”;
 - (b) omit the words in brackets.

59 Urgent designation of persons by description

- (1) Section 12 of the 2018 Act (designation by persons by description under a designation power) is amended in accordance with subsections (2) to (9).
- (2) After subsection (1) insert—
- “(1A) The regulations must contain provision for the Minister to be able to choose whether to provide that persons of a specified description are designated persons under either—
- (a) the standard procedure, or
 - (b) the urgent procedure.”

Status: This is the original version (as it was originally enacted).

(3) For subsection (2) substitute—

“(2) The regulations must contain provision which prohibits the exercise of that power under the standard procedure except where conditions A and C are met.”

(4) Omit subsection (4).

(5) In subsection (5) omit paragraph (b) (and the “and” before it).

(6) After subsection (5) insert—

“(5A) The regulations must provide that under the urgent procedure—

- (a) the Minister may provide that persons of a specified description are designated persons where condition C is not met, but conditions A, D and E are met, and
- (b) the persons cease to be designated persons at the end of the period of 56 days beginning with the day following the day on which the persons became designated persons unless, within that period, the Minister certifies that—
 - (i) conditions A and C are met, or
 - (ii) conditions A, D and E continue to be met.

(5B) The regulations must also provide that, under the urgent procedure, in a case where the Minister makes a certification under subsection (5A)(b)(ii), the designation ceases to have effect at the end of the period of 56 days beginning with the day immediately following the period mentioned in subsection (5A)(b), unless within that period the Minister certifies that conditions A and C are met.

(5C) Condition D is that the description of persons specified is of persons (or some persons) to which, or in relation to which, relevant provision (whenever made) applies under the law of—

- (a) the United States of America;
- (b) the European Union;
- (c) Australia;
- (d) Canada;
- (e) any other country specified for the purposes of this paragraph in regulations made by an appropriate Minister.

(5D) Condition E is that the Minister considers that it is in the public interest to provide that persons of a specified description are designated persons under the urgent procedure.

(5E) For the purposes of condition D, relevant provision is provision that the Minister considers—

- (a) corresponds, or is similar, to the type of sanction or sanctions in the regulations under section 1, or
- (b) is made for purposes corresponding, or similar, to any purpose of any type of sanction or sanctions in the regulations under section 1.”

(7) In subsection (7), after “designated persons” insert “under the standard procedure”.

(8) After subsection (7) insert—

“(7A) The regulations must, in relation to any case where the Minister provides that persons of a specified description are designated persons under the urgent procedure, require the information given under the provision made under section 10(3) to include a statement—

- (a) that the provision is made under the urgent procedure,
- (b) identifying the relevant provision by reference to which the Minister considers that condition D is met in relation to persons of the specified description, and
- (c) setting out why the Minister considers that condition E is met.

(7B) The regulations must provide that, in relation to any case where the Minister provides that persons of a specified description are designated persons under the urgent procedure, the Minister must, after the end of the period mentioned in subsection (5A)(b), or if the Minister has made a certification under subsection (5A)(b)(ii) the period mentioned in subsection (5B), but otherwise without delay—

- (a) in a case where the persons cease to be designated persons, take such steps as are reasonably practicable to inform the persons that they have ceased to be designated persons, or
- (b) in any other case, take such steps as are reasonably practicable to give each designated person a statement of reasons.”

(9) In subsection (8)—

- (a) for “subsection (7)” substitute “subsections (7) and (7A)”;
- (b) for the words from “which have led” to the end substitute “—
 - (a) in the case of a designation under the standard procedure, which have led the Minister to make the provision designating persons of that description, and
 - (b) in the case of a designation under the urgent procedure, as a result of which the persons do not cease to be designated persons at the end of the period mentioned in subsection (5A)(b) or (5B) (as the case may be).”

(10) In section 22 of the 2018 Act (power to vary or revoke designation made under regulations), in subsection (4), in paragraph (b)—

- (a) for “12(2)” substitute “12”;
- (b) omit the words in brackets.

60 Specified ships

In section 14 of the 2018 Act (“specified ships”), in subsection (6), omit paragraph (b) (and the “and” before it).

61 Existing sanctions regulations

(1) Any pre-commencement regulations which authorise an appropriate Minister to designate persons by name (see section 11 of the 2018 Act) have effect, and for the purposes of anything done on or after the day on which this Act is passed are deemed to have always had effect, as if the regulations contain the provision required to be included as a result of the amendments made by section 58.

- (2) Any pre-commencement regulations which grant a power to an appropriate Minister to provide that persons of a specified description are designated persons (see section 12 of the 2018 Act) have effect, and for the purposes of anything done on or after the day on which this Act is passed are deemed to have always had effect, as if the regulations contain the provision required to be included as a result of the amendments made by section 59.
- (3) Pre-commencement regulations have effect, and for the purposes of anything done on or after the day on which this Act is passed are deemed to have always had effect, as if the regulations do not include any provision required to be included by the following provisions—
- (a) section 11(2)(b) of the 2018 Act (which is now omitted by virtue of the amendment made by section 58(3));
 - (b) section 12(2) of the 2018 Act to the extent that that subsection related to provisions repealed by section 59(4) or (5);
 - (c) provision repealed by section 60.
- (4) In this section, “pre-commencement regulations” means regulations under Part 1 of the 2018 Act made before the day on which this Act is passed.

Reviews and reports

62 Removal of reviews

- (1) Omit the following provisions of the 2018 Act—
- (a) section 24 (periodic review of certain designations);
 - (b) section 28 (periodic review where ships are specified);
 - (c) section 30 (review of regulations under section 1).
- (2) In section 33 of the 2018 Act (procedure for requests to, and reviews by, appropriate Minister)—
- (a) in the heading, omit “, and reviews by,”;
 - (b) in subsection (1) omit “or a review under section 24, 28 or 30”.
- (3) In section 45 of the 2018 Act (revocation and amendment of regulations under section 1), in subsection (6) omit “and section 30”.

63 Removal of reporting requirements

- (1) Omit the following provisions of the 2018 Act—
- (a) section 18 (report in respect of offences in regulations);
 - (b) section 32 (periodic reports on exercise of power to make regulations under section 1);
 - (c) section 46 (report where regulations for a purpose within section 1(2) are amended).
- (2) In section 57 of the 2018 Act (duties to lay certain reports before Parliament: further provision)—
- (a) omit subsections (1) and (2);
 - (b) in subsection (3), for “a reporting provision” substitute “paragraph 21(2) of Schedule 2 (duty to lay report)”;

- (c) in subsection (4), for “a reporting provision” substitute “paragraph 21(2) of Schedule 2”;
- (d) in subsection (5), for “the reporting provision in question” substitute “paragraph 21(2) of Schedule 2”.

64 Court reviews: restrictions regarding damages

- (1) In section 39 of the 2018 Act (court reviews: further provision)—
 - (a) in subsection (2) omit paragraph (a) (and the “or” after it);
 - (b) after subsection (2) insert—

“(2A) Damages permitted by subsection (2) must not exceed such amount as may be specified in, or calculated in accordance with, regulations made by an appropriate Minister for the purposes of this subsection.”
- (2) In section 55 (regulations: procedure), in subsection (5), after paragraph (a) insert—

“(aa) section 39(2A),”.
- (3) The amendments made by this section apply in relation to proceedings to which section 39(2) of the 2018 Act applies that are commenced on or after 4 March 2022.

Miscellaneous

65 Sharing of information

- In section 16 of the 2018 Act (sanctions regulations: information), in subsection (1) (a) after “requiring” insert “or authorising”.

66 Consequential provision

- (1) An appropriate Minister (within the meaning of the 2018 Act) may by regulations make provision that the Minister considers to be consequential on this Chapter amending—
 - (a) Part 1 or 3 of the 2018 Act, or
 - (b) regulations made under Part 1 of that Act.
- (2) A statutory instrument containing (whether alone or with other provision) regulations under this section that amend or repeal any provision of Part 1 or 3 of the 2018 Act is subject to the affirmative resolution procedure.
- (3) Any other statutory instrument containing regulations under this section is subject to the negative resolution procedure.