

EXPLANATORY MEMORANDUM TO
THE IRAN (EUROPEAN COMMUNITY FINANCIAL SANCTIONS) (AMENDMENT)
REGULATIONS 2010

2010 No. 2613

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

The purpose of the Regulations is to ensure that the penalties in UK law for breach of European asset freezing measures in relation to Iran remain in force. The European Union has repealed and replaced the Council Regulation containing the asset freezing measures, although the measures themselves remain the same. These Regulations update the reference to the repealed Council Regulation in the Iran (European Community Financial Sanctions) Regulations 2007 (S.I. 2007/1374) (“the 2007 Regulations”), the Regulations imposing the penalties.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 These Regulations come into force on the day they are laid, so have been laid before Parliament less than 21 days before they come into force. Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Council Regulation (EC) 423/2007 (“the EU Regulation”) comes into force on the day of its publication in the Official Journal. The penalties in the 2007 Regulations are drafted by reference to a list of persons contained in an Annex to the repealed EC Regulation, and it is necessary to update that reference so that the penalties remain in force.

3.2 If no penalties are in place for breach of the EU asset freezing measures, there is a significantly increased risk of breach of the prohibitions, resulting in asset flight or in the transfer of funds to persons or entities involved in Iran’s proliferation-related nuclear activities. The Regulations could not be made and laid before the EU Regulation had been finalised and published, so it has not been possible to provide the Committees with the opportunity to consider the Regulations before they come into force. However, the substance of the 2007 Regulations has not changed and the prohibitions in the EU Regulation reflect those in the Regulation it replaces, so these Regulations effectively maintain the status quo.

4. Legislative Context

4.1 The 2007 Regulations provide for penalties for breach of the asset freezing measures imposed by the EU against Iran. These measures were contained in Council Regulation (EC) 423/2007. A new EU Regulation, No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Council Regulation (EC) 423/2007, replicates these asset freezing measures and repeals Regulation 423/2007. These Regulations amend the 2007 Regulations to update the reference to the EU legislation.

4.2 An Explanatory Memorandum on Draft Council Regulation on restrictive measures against Iran and repealing Council Regulation (EC) No. 423/2007 was submitted for Parliamentary Scrutiny by the Foreign and Commonwealth Office on 9 September 2010. The House of Commons European Scrutiny Committee cleared the document on 15 September 2010. The House of Lords Select Committee on the European Union cleared the document on 7 October 2010 after referral to Sub-Committee C.

4.3 The new EU Regulation also contains new financial sanctions against Iran, in addition to the asset freezing measures, and the Treasury intend shortly to make regulations creating penalties for breach of those additional measures. Those regulations will consolidate the penalties in relation to the asset freezing measures.

5. Territorial Extent and Application

The Regulations amend the 2007 Regulations, which apply to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 These Regulations amend the Iran (European Community Financial Sanctions) Regulations 2007. The 2007 Regulations impose criminal penalties for breaches of European Union asset freezing measures against Iran. The purpose of these Regulations is to ensure that the penalties remain in place, following a change in the European legislation imposing the freezing measures. The measures themselves, and the penalties contained in the 2007 Regulations remain unchanged.

7.2 The Treasury consider it important that breach of the asset freezing measures should attract a criminal penalty, as a means of providing effective and dissuasive penalties for breaching the asset freezing measures as set out in the EU Regulation. The

European measures are aimed at disrupting Iran's nuclear proliferation activities, and a breach of the asset freezing measures is a serious matter.

7.3 These Regulations also provide that any licences of exemption from the requirements of the asset freeze which were granted under the 2007 Regulations in respect of Regulation 423/2007 remain valid in respect of Regulation 961/2010.

- Consolidation

7.4 Penalties for breaches of the EU asset freezing measures in relation to persons listed by the United Nations are contained in the Iran (Financial Sanctions) Order 2007 (S.I. 2007/281). The Treasury intend to consolidate these penalties, and impose penalties for breach of the additional financial sanctions contained in the new EU Regulation, by bringing forward further regulations shortly.

8. Consultation outcome

These Regulations do not affect the requirements of the EU asset freeze, or the penalties for breach of those requirements. The effect is to maintain the status quo. Accordingly it was not considered necessary to consult.

9. Guidance

Guidance on the asset freezing measures in relation to Iran is available on the Treasury's website. The Treasury's Asset Freezing Unit operates a subscription email service updating subscribers on changes to the asset freezing regimes, and a dedicated telephone line and email address are available for the financial sector and other persons to submit queries on the asset freezing regimes. A notice explaining the new EU Regulation is available on the Treasury website and was emailed to subscribers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible, because the requirements of the asset freezing legislation have not changed, nor have the penalties for breach of those requirements.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument because there are no substantive changes. The Impact Assessment prepared for the 2007 Regulations is attached for information.

11. Regulating small business

The legislation applies to small business. The Treasury work with the financial sector on the requirements for complying with the asset freezing measures set out in the EU

Regulation. The Treasury have provided detailed guidance to assist business in complying with the asset freezing measures.

12. Monitoring & review

The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breach of the EU asset freezing measures if the EU Regulation is amended or repealed.

13. Contact

Matthew Myers at the Asset Freezing Unit of the Treasury Tel: 020 7270 5991 or email: matthew.myers@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.

Regulatory Impact Assessment

**THE IRAN (EUROPEAN COMMUNITY FINANCIAL SANCTIONS)
REGULATIONS 2007**

2007 No. 1374

1. Title of proposal

The Iran (European Community Financial Sanctions) Regulations 2007

2. Purpose and intended effect

The Iran (European Community Financial Sanctions) Regulations 2007 (SI 2007/1374) (the “Iran Regulations”) provide that breaches of certain prohibitions, which enforce certain financial sanctions in Council Regulation (EC) N0 423/2007 (“the EC Regulation”), and certain other acts and omissions are criminal offences.

3. Consultation

No consultation was carried out on this RIA. In the current circumstances, where there may be an operational requirement for such provisions, there was considered to be a sufficiently urgent requirement to dispense with consultation.

4. Options

The UK is required to lay down rules on penalties applicable to infringements of the EC Regulation and to take all measures necessary to ensure that they are implemented.

5. Costs and benefits

Sectors and groups affected:

Financial institutions.

Benefits:

The financial sanctions against persons involved with Iran’s nuclear programme are intended to exert pressure on those persons with the aim of halting proliferation. This supports international efforts to ensure peace and security through non-proliferation. The UK is obliged to provide for the enforcement of the financial sanctions. Consistent with those requirements under European law, the Iran (European Community Financial Sanctions) Regulations 2007 ensure that the financial sanctions are fully enforceable in the UK.

Costs:

There are some compliance costs for financial institutions in implementing financial sanctions. The Government is mindful of these compliance costs and seeks to ensure

that international sanctions regimes are well targeted and are based on good identifying information to help financial institutions administer them.

6. Small Firms Impact Test

Not applicable – no particular impact on small firms.

7. Competition assessment

Not applicable – no particular competition impact.

8. Enforcement, sanctions and monitoring

The provisions are set out in the Order.

9. Implementation and delivery plan

Not applicable – no further implementation is required.

10. Post-implementation review

Not applicable – as no further implementation is required.

11. Summary and recommendation

The Iran (European Community Financial Sanctions) Regulations 2007 are necessary to give effect to financial sanctions against persons designated at the European level. Doing nothing would not be consistent with our legal obligations and is therefore not an option in this case.

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed

Date

Minister's name, title, department

Contact point for enquiries and comments: name, address, telephone number and email address.

Helena Wood, Financial Sanctions Unit, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ

Telephone: 020 7270 5209

Email: Helena.Wood@hm-treasury.x.gsi.gov.uk