

**EXPLANATORY MEMORANDUM TO**  
**THE BELARUS (ASSET-FREEZING) (AMENDMENT) REGULATIONS 2015**  
**2015 No. 1850**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 These Regulations suspend regulations 3, 4, 5, 6 and 7 of the Belarus (Asset-Freezing) Regulations 2013 (S.I. 2013/164) (“the 2013 Regulations”) insofar as they apply to certain persons, entities or bodies. Regulations 3, 4, 5, 6, 7 and 10, of the 2013 Regulations provide for criminal penalties for breach of financial sanctions imposed by Council Regulation (EC) No. 765/2006 (“the 2006 Council Regulation”) of 20 May 2006 concerning certain restrictive measures in respect of Belarus (O.J. L 55, 20.5.2006, p.1), which contains various sanctions measures imposed in respect of certain officials of Belarus. Those measures include financial sanctions which require the funds and economic resources of certain persons, entities and bodies, listed in Annex I of the Council Regulation, to be frozen.
- 2.2 Council Regulation (EU) No. 2015/1948 of 29 October 2015 (O.J. L 284, 30.10.2015, p.62) (“the 2015 Council Regulation”) suspended the financial sanctions measures in the 2006 Council Regulation insofar as they apply to certain persons entities or bodies listed in its annex, which is inserted into the 2006 Council Regulation as Annex IV. The restrictive measures continue to remain in force against those persons, entities or bodies listed in Annex I and not the new Annex IV to the 2006 Council Regulation. Other restrictions and obligations imposed by the 2006 Council Regulation will continue to apply to persons, entities and bodies listed in Annex IV.

**3. Matters of special interest to Parliament**

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

- 3.1 These Regulations have been laid before Parliament less than 21 days before they come into force.
- 3.2 The 2013 Regulations provide for penalties for breach of the financial sanctions contained in the 2006 Council Regulation. The 2015 Council Regulation has suspended the financial sanctions measures in the 2006 Council Regulation, insofar as they apply to persons entities or bodies listed in the annex to the 2015 Regulation. It is important that the penalties put in place by the 2013 Regulations for breach of these measures are removed as soon as possible, otherwise penalties will continue to apply in domestic law, or at least appear to do so, in respect of activities which are not prohibited under EU law. In practice, no prosecution would be likely to be brought for anything done from the start of the period of suspension under the 2015 Council Regulation.

### *Other matters of interest to the House of Commons*

- 3.3 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

## **4. Legislative Context**

- 4.1 These Regulations suspend regulations 3 to 7 of the 2013 Regulations insofar as they apply to certain persons entities or bodies. Regulations 3 to 7 and 10 of the 2013 Regulations provide for criminal penalties for breach of the financial sanctions provisions of the 2006 Council Regulation. The Council of the European Union adopted Council Decision 2015/1957/CFSP on 29 October (“the 2015 Council Decision”) which amends Council Decision 2012/642/CFSP concerning restrictive measures against Belarus by suspending the operation of financial sanctions measures insofar as they apply to certain persons, entities or bodies. The 2015 Council Regulation has accordingly suspended the application of the financial sanctions measures contained in the 2006 Council Regulation to certain persons, entities or bodies.
- 4.2 On 23 October 2015, the Foreign and Commonwealth Office Minister for Europe, David Lidington MP, agreed to override Parliamentary Scrutiny relating to the new legal texts. The Foreign and Commonwealth Office will submit to the Committees a post-adoption Explanatory Memorandum and accompanying letters. An override was necessary because Council agreement on the substance of the legal texts was not reached until 26 October 2015, at which point there was insufficient time to submit the relevant documents for scrutiny before the restrictive measures were due to expire, on 31 October 2015.

## **5. Extent and Territorial Application**

- 5.1 This instrument applies to all of the United Kingdom and, outside the United Kingdom, to British Citizens, any UK national and any body incorporated in the UK.

## **6. European Convention on Human Rights**

- 6.1 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 suspend regulations 3 to 7 of the 2013 Regulations insofar as they apply to certain persons, entities or bodies. The 2013 Regulations provide for criminal penalties for breach of financial sanctions contained in the 2006 Council Regulation.
- 7.2 The financial sanctions contained in the 2006 Council Regulation have been suspended by the 2015 Council Regulation insofar as they apply to certain persons, entities or bodies. These Regulations accordingly suspend the domestic penalties for breach of those measures.

### *Consolidation*

- 7.3 Not applicable.

## **8. Consultation outcome**

8.1 No consultation has been carried out in relation to these Regulations.

## **9. Guidance**

9.1 Guidance on current and lifted asset freezing regimes is available on the Treasury's website. Financial Sanctions, within the Treasury, operates a free subscription email service alerting subscribers on changes to the asset freezing regimes, and on other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing regime. A notice explaining the suspension of the financial sanctions in the 2006 Council 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 these Regulations do not themselves impose requirements, but only suspend penalties in relation to activities which are not currently prohibited by the directly effective 2006 Council Regulation.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument, because any impact may only be due to the 2006 Council Regulation rather than these Regulations.

## **11. Regulating small business**

11.1 The legislation applies to activities that are undertaken by small businesses. To minimise the impact of the requirements on small businesses (employing up to 50 people), the Treasury work with the financial sector on the requirements for complying with the asset freezing and financial sanctions measures set out in the Council Regulation. The Treasury have provided detailed guidance to assist business in complying with these measures.

## **12. Monitoring & review**

12.1 The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breach of the restrictions imposed by the 2006 Council Regulation, if it is amended or repealed.

12.2 It is therefore not appropriate in the circumstances to make provision for further periodic review as contemplated in ss.28-32 of the Small Business Enterprise and Employment Act 2015.

## **13. Contact**

13.1 Financial Sanctions at the Treasury Telephone: 020 7270 5454 or email: [financialsanctions@hmtreasury.gsi.gov.uk](mailto:financialsanctions@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.