

EXPLANATORY MEMORANDUM TO
THE BELARUS (ASSET-FREEZING) (AMENDMENT) REGULATIONS 2016
2016 No. 504

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations amend the Belarus (Asset-Freezing) Regulations 2013 (“the 2013 Regulations”) so that the definition of “designated person” no longer refers to Annex IV, which has been removed from Council Regulation (EC) No. 765/2006 (“the 2006 Council Regulation”) by Council Regulation (EU) No. 2016/277 of 25 February 2016 (O.J. L 52 27.02.2016, p.22). Please see below for the full legislative context.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 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 The 2006 Council Regulation imposes various sanctions in relation to specified officials of Belarus. These sanctions include measures freezing the funds and economic resources of the persons, entities and bodies listed in Annex I to the 2006 Council Regulation. Criminal penalties for the breach of the restrictive measure imposed by the 2006 Council Regulation are imposed by regulations 3 to 7, and 10, of the 2013 Regulations.
- 4.2 Those measures were partially suspended by Council Regulation (EU) No. 2015/1948 of 29 October 2015 (O.J. L 284, 30.10.2015, p.62) (“the 2015 Council Regulation”). The 2015 Council Regulation amended the 2006 Council Regulation by inserting a new Annex IV which listed those persons, entities and bodies against whom those measures were suspended.
- 4.3 These persons, entities and bodies have been now been delisted by Council Regulation (EU) No. 2016/277 of 25 February 2016 (O.J. L 52 27.02.2016, p.22), and the suspension list at Annex IV to the 2006 Council Regulation has been removed.
- 4.4 These Regulations amend the 2013 Regulations so that the definition of “designated person” no longer refers to Annex IV.
- 4.5 On 24 February the new legal texts were cleared from scrutiny by the House of Lords Select Committee on European Union. The Foreign and Commonwealth Office

submitted to the House of Commons European Scrutiny Committee on 10 March a post-adoption Explanatory Memorandum and accompanying letter.

5. Extent and Territorial Application

- 5.1 This instrument extends to all of the United Kingdom.
- 5.2 This instrument applies to all of the United Kingdom, and outside the United Kingdom to any UK national anybody incorporated in the United Kingdom.

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 Since the Lukashenko regime's release of all remaining political prisoners in August 2015, EU Member States agreed that a softening of the sanctions was justified in order to encourage further cooperation from the Belarusian regime. In October 2015 a suspension regime was agreed: the 2015 Council Regulation amended the 2006 Council Regulation by inserting a new Annex IV that listed those persons, entities and bodies against whom restrictive measures were suspended (171 individuals and 14 entities).
- 7.2 In February 2016, the EU Council's annual review of the Belarus Sanctions Regime concluded that the suspension had been a success. The EU Council has taken the decision to permanently remove Annex IV from the Regulations, and delist those designated entities entirely. The asset freeze remains in place in respect of four individuals.
- 7.3 These Regulations amend the 2013 Regulations so that the definition of "designated person" no longer refers to the suspensions regime (in Annex IV).

Consolidation

- 7.4 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.
- 11.2 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 Tel: 020 7270 5454 or email: financialsanctions@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.