

Rules made by the Lord Chancellor, laid before Parliament under section 40(8) of the Sanctions and Anti-Money Laundering Act 2018, for approval by resolution of each House of Parliament within 28 days beginning with the day on which the Rules were made, subject to extension for periods of dissolution, prorogation or adjournment for more than 4 days.

STATUTORY INSTRUMENTS

2019 No. 147 (L. 2)

SENIOR COURTS OF ENGLAND AND WALES

EXITING THE EUROPEAN UNION

SANCTIONS

The Civil Procedure (Amendment) (EU Exit) Rules 2019

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| <i>Made</i> | - - - - | <i>30th January 2019</i> |
| <i>Laid before Parliament</i> | | <i>31st January 2019</i> |
| <i>Coming into force</i> | - - | <i>1st March 2019</i> |

The Lord Chancellor, in exercise of the power conferred by section 40 of the Sanctions and Anti-Money Laundering Act 2018(a) (“the 2018 Act”) to make rules of court under section 1 of the Civil Procedure Act 1997(b), and after consulting in accordance with section 40(5)(a) of the 2018 Act, makes the following Rules.

Citation and commencement

1. These Rules may be cited as the Civil Procedure (Amendment) (EU Exit) Rules 2019 and come into force on 1st March 2019.

Interpretation

2. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(c).

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- (a) 2018 c. 13. Section 40(1) provides that sections 66 to 68 of the Counter-Terrorism Act 2008 (c. 28) apply in relation to proceedings on applications under section 38 of the Sanctions and Anti-Money Laundering Act 2018 and claims arising from matters to which such an application relates as they apply in relation to financial restrictions proceedings within the meaning of section 65 of the 2008 Act, with modifications.
- (b) 1997 c. 12. Section 1(3) was amended by the Courts Act 2003 (c. 39), section 82(1) (the amendment is not yet in force), and by the Constitutional Reform Act 2005 (c. 4), sections 15(1) and 146 and Schedule 4, paragraphs 261 and 262 and Schedule 18, Part 2.
- (c) S.I. 1998/3132. Relevant amendments were made by S.I. 2008/3085, S.I. 2009/2092 and S.I. 2010/3038.

Amendment of Part 79 of the Civil Procedure Rules 1998

3.—(1) Part 79 of the Civil Procedure Rules 1998 (proceedings under the Counter-Terrorism Act 2008(a) and Part 1 of the Terrorist Asset-Freezing etc. Act 2010(b)) is amended as follows.

(2) For the title of Part 79 substitute—

“PROCEEDINGS UNDER THE COUNTER-TERRORISM ACT 2008, PART 1 OF THE TERRORIST ASSET-FREEZING ETC. ACT 2010 AND PART 1 OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018”.

(3) In the table of contents for Part 79—

- (a) for the cross-heading for section 2, substitute “APPLICATION TO SET ASIDE FINANCIAL RESTRICTIONS DECISIONS UNDER THE 2008 ACT OR THE 2010 ACT AND SANCTIONS DECISIONS UNDER THE 2018 ACT”;
- (b) in the entry for rule 79.11, for “the Treasury” substitute “the appropriate Minister”;
- (c) in the entry for rule 79.21, for “the Treasury’s” substitute “the appropriate Minister’s”;
- (d) in the entry for rule 79.26, for “the Treasury’s” substitute “the appropriate Minister’s”;
- (e) in the entry for rule 79.29, for “Treasury” substitute “appropriate Minister”.

(4) In rule 79.1—

- (a) in paragraph (1)(b), after “2010” insert “, and sanctions proceedings under the Sanctions and Anti-Money Laundering Act 2018”;
- (b) in paragraph (2)—
 - (i) after sub-paragraph (aa), insert—

“(ab) “the 2018 Act” means the Sanctions and Anti-Money Laundering Act 2018;
 - (ac) “appropriate Minister” means—
 - (i) in relation to a challenge to a decision of the Secretary of State, the Secretary of State;
 - (ii) in relation to a challenge to a decision of the Treasury, the Treasury;”;
 - (ii) after sub-paragraph (b), insert—

“(ba) “sanctions decision” means a decision to which section 38 of the 2018 Act (court review of decisions) applies;”;
 - (iii) after sub-paragraph (c), insert—

“(cza) “sanctions proceedings” means proceedings—
 - (i) on an application under section 38 of the 2018 Act, or
 - (ii) on a claim arising from any matter to which such an application relates;”;
 - (iv) in sub-paragraph (d)—
 - (aa) in paragraph (i), for “the Treasury wish” substitute “the appropriate Minister wishes”;
 - (bb) in paragraph (ii), for “the Treasury’s” substitute “the appropriate Minister’s”;
 - (cc) in paragraph (iii), for “the Treasury are” substitute “the appropriate Minister is”;
 - (dd) in the words after paragraph (iii), for “the Treasury object” substitute “the appropriate Minister objects”;
 - (v) in sub-paragraphs (e) and (g), for “the Treasury” substitute “the appropriate Minister”;
 - (vi) in sub-paragraph (h), after “the 2010 Act” insert “and section 40(1) of the 2018 Act”;

(a) 2008 c. 28.

(b) 2010 c. 38.

- (vii) in sub-paragraph (i), for “the Treasury” substitute “the appropriate Minister”.
- (c) For the heading to section 2 substitute—
 - “*APPLICATION TO SET ASIDE FINANCIAL RESTRICTIONS DECISIONS UNDER THE 2008 ACT OR THE 2010 ACT AND SANCTIONS DECISIONS UNDER THE 2018 ACT*”.
- (5) In rule 79.3, after “2010 Act” insert “or a sanctions decision under section 38(2) of the 2018 Act”.
- (6) In rule 79.5(1), after “decision” insert “or sanctions decision”.
- (7) In rule 79.6—
 - (a) in paragraphs (1) and (2)(a) and (b), after “decision” insert “or sanctions decision”;
 - (b) in paragraph (3)(a)(i)—
 - (i) after “decision” insert “or sanctions decision”;
 - (ii) for “the Treasury” substitute “the appropriate Minister”.
- (8) In rules 79.8, 79.9 and 79.10, in each place it occurs, for “the Treasury” substitute “the appropriate Minister”.
- (9) In rule 79.11—
 - (a) in each place it occurs (including the heading), for “the Treasury” substitute “the appropriate Minister”;
 - (b) in paragraph (1)—
 - (i) for “intend” substitute “intends”;
 - (ii) after “decision” insert “or sanctions decision”;
 - (iii) for “they must” substitute “the appropriate Minister must”;
 - (iv) for “they are” substitute “the appropriate Minister is”;
 - (c) in paragraphs (2) and (3), for “object” substitute “objects”;
 - (d) in paragraph (5), for “the Treasury’s” substitute “the appropriate Minister’s”;
 - (e) in paragraphs (6)(b) and (7)(a), after “decision” insert “or sanctions decision”;
 - (f) in paragraph (8), for “object” substitute “objects”.
- (10) In rule 79.12—
 - (a) in each place it occurs, for “the Treasury” substitute “the appropriate Minister”;
 - (b) in paragraph (1), after “decision” insert “or sanctions decision”;
 - (c) in paragraph (3), for “seek” substitute “seeks”.
- (11) In rule 79.13, after “proceedings” insert “and sanctions proceedings”.
- (12) In rule 79.17—
 - (a) in each place it occurs, for “the Treasury” substitute “the appropriate Minister”;
 - (b) in paragraph (1)(b), for “consent” substitute “consents”.
- (13) In rule 79.18—
 - (a) in each place it occurs, for “the Treasury” substitute “the appropriate Minister”;
 - (b) in paragraph (1)(b), for “intend” substitute “intends”;
 - (c) in paragraph (2)(a), for “do” substitute “does”.
- (14) In rule 79.19, for “the Treasury” substitute “the appropriate Minister”.
- (15) In rule 79.20—
 - (a) in each place it occurs, for “the Treasury” substitute “the appropriate Minister”;
 - (b) in paragraphs (1) and (2), for “serve” substitute “serves”;
 - (c) in paragraph (3)(b), for “them” substitute “the appropriate Minister”;

- (d) in paragraph (5)(b), for “they have” substitute “the appropriate Minister has”;
 - (e) in paragraph (6), for “have” substitute “has”.
- (16) In rule 79.21—
- (a) in the heading, for “the Treasury’s” substitute “the appropriate Minister’s”;
 - (b) in each place it occurs, for “the Treasury” substitute “the appropriate Minister”;
 - (c) in paragraph (1), for “object” substitute “objects”;
 - (d) in paragraph (2)(a), for “serve” substitute “serves”;
 - (e) in paragraph (3)(a), for “the Treasury’s” substitute “the appropriate Minister’s”.
- (17) In rule 79.24—
- (a) in both places, for “the Treasury” substitute “the appropriate Minister”;
 - (b) for “serve” substitute “serves”.
- (18) In rule 79.25—
- (a) in each place it occurs, for “the Treasury” substitute “the appropriate Minister”;
 - (b) in paragraph (2)(c), for “consider” substitute “considers”;
 - (c) in paragraph (3), for “serve” substitute “serves”.
- (19) In rule 79.26—
- (a) in the heading, for “the Treasury’s” substitute “the appropriate Minister’s”;
 - (b) in each place it occurs, for “the Treasury” substitute “the appropriate Minister”;
 - (c) in paragraph (1), for “apply” substitute “applies”;
 - (d) in paragraph (2)(a), for “serve” substitute “serves”;
 - (e) in paragraph (3)(a), for “the Treasury’s” substitute “the appropriate Minister’s”;
 - (f) in paragraph (7)—
 - (i) in sub-paragraph (a), for “are” substitute “is”;
 - (ii) in sub-paragraph (b)—
 - (aa) for “they do” substitute “the appropriate Minister does”;
 - (bb) for “the Treasury’s” substitute “the appropriate Minister’s”;
 - (cc) for “their” substitute “the appropriate Minister’s”;
 - (dd) for “do” substitute “does”.
- (20) In rule 79.28, in each place it occurs, for “the Treasury” substitute “the appropriate Minister”.
- (21) In rule 79.29—
- (a) in the heading, for “Treasury” substitute “appropriate Minister”;
 - (b) in each place it occurs, for “the Treasury” substitute “the appropriate Minister”;
 - (c) in paragraph (3)—
 - (i) for “they consider” substitute “the appropriate Minister considers”;
 - (ii) for “their” substitute “the appropriate Minister’s”;
 - (d) in paragraph (4)—
 - (i) for “make” substitute “makes”;
 - (ii) for “they” substitute “the appropriate Minister”.

30th January 2019

David Gauke
Lord Chancellor
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules amend Part 79 of the Civil Procedure Rules 1998 (S.I. 1998/3132) to extend existing procedures to challenges to sanctions-related decisions made under the Sanctions and Anti-Money Laundering Act 2018 (c. 13) (“the 2018 Act”). Section 40 of the 2018 Act enables rules of court to be made which allow the closed material procedure provided for in the Counter-Terrorism Act 2008 (c. 28) to be used in respect of legal challenges to decisions made under Part 1 of the 2018 Act; for example, challenges to decisions of the Secretary of State or the Treasury designating persons for certain sanctions purposes set out in the 2018 Act and Regulations to be made under that Act. In the course of any such challenge the government will be able to 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.

An impact assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen. An impact assessment was produced for the primary legislation and can be found at <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/sanctions-and-anti-money-laundering-IA.pdf>. That assessment concluded that the introduction of the 2018 Act, and statutory instruments under it to transfer existing sanctions regimes into UK law, would overall reduce uncertainty for business and would not result in significant costs or impact, apart from some familiarisation costs for businesses associated with adapting to the new legislative framework.

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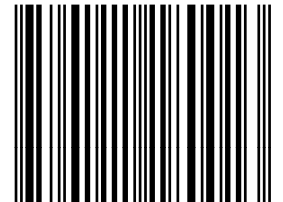
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