

2020 No. 774

SANCTIONS

The Global Human Rights Sanctions (Isle of Man) Order 2020

Made - - - - *21st July 2020*

Coming into force - - *22nd July 2020*

At the Court at Windsor Castle, the 21st day of July 2020

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 63(3)(b) and (4) of the Sanctions and Anti-Money Laundering Act 2018(a), is pleased, by and with the advice of Her Privy Council, to make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Global Human Rights Sanctions (Isle of Man) Order 2020 and comes into force on 22nd July 2020.

(2) This Order extends to the Isle of Man.

Extension of the Global Human Rights Sanctions Regulations 2020

2. The Global Human Rights Sanctions Regulations 2020(b) as amended from time to time extend to the Isle of Man with the modifications specified in the Schedule.

Extension of the Sanctions and Anti-Money Laundering Act 2018

3.—(1) Subject to the modifications set out in sub-paragraphs (a) and (c), the following provisions of the Sanctions and Anti-Money Laundering Act 2018 extend to the Isle of Man for the purposes of the Global Human Rights Sanctions Regulations 2020 as modified and extended to the Isle of Man by this Order—

- (a) section 43 (guidance about regulations under section 1), except that, in its application to the Isle of Man—
 - (i) the reference in subsection (1) of that section to regulations under section 1 is to be read as a reference to the Global Human Rights Sanctions Regulations 2020 as modified and extended to the Isle of Man by this Order, and
 - (ii) the reference in subsection (1) of that section to the appropriate Minister who made the regulations is to be read as a reference to the Treasury;

(a) 2018 c.13.
(b) S.I. 2020/680.

- (b) section 44 (protection for acts done for purposes of compliance);
- (c) section 53 (saving for prerogative powers), except that, in its application to the Isle of Man, the reference in subsection (1) of that section to the United Kingdom is to be read as a reference to the Isle of Man.

(2) In this article, “Treasury” has the meaning given in the Interpretation Act 2015 (of Tynwald)(a).

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE

Article 2

Modifications to be made in the extension of the Global Human Rights Sanctions Regulations 2020 to the Isle of Man

1. In regulation 1 (citation and commencement)—

- (a) in the heading, omit “and commencement”;
- (b) omit paragraph (2).

2. In regulation 2 (interpretation)—

- (a) the existing text becomes paragraph (1);
- (b) in that paragraph, in the appropriate place, insert—
 - ““Treasury” has the meaning given in the Interpretation Act 2015 (of Tynwald)(b);”;
- (c) after that paragraph insert—
 - “(2) In these Regulations, all references to Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald)) are to be construed as references to that legislation as amended from time to time.”

3. In regulation 3 (application of prohibitions and requirements outside the United Kingdom)—

- (a) in the heading, for “United Kingdom” substitute “Isle of Man”;
- (b) in paragraphs (1) and (4), for “A United Kingdom person” substitute “An Island person”;
- (c) in paragraphs (1), (4) and (7), for “United Kingdom” substitute “Isle of Man”;
- (d) in paragraphs (2) and (5), after “in the territorial sea” insert “of the Isle of Man”;
- (e) at the end, insert—
 - “(8) In this regulation—
 - “Island person” means a person who is—
 - (a) an individual ordinarily resident in the Isle of Man who is—
 - (i) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (ii) a person who under the British Nationality Act 1981(c) is a British subject, or
 - (iii) a British protected person within the meaning of that Act, or
 - (b) a body incorporated or constituted under the law of the Isle of Man;
 - “territorial sea of the Isle of Man” means the territorial sea adjacent to the Isle of Man.”

4. Omit regulation 5 (power to designate persons) (including the heading).

(a) AT 11 of 2015.

(b) AT 11 of 2015.

(c) 1981 c.61. Part IV has been amended by the British Overseas Territories Act 2002 (c.8), section 1(1)(b); and the Nationality, Immigration and Asylum Act 2002 (c.41), Schedule 2, paragraph 1(i).

5. Omit regulation 6 (designation criteria) (including the heading).

6. For regulation 8 (notification and publicity where designation power used), substitute—

“Requirement to publish a list of designated persons

8.—(1) Subject to paragraph (2), the Treasury must—

- (a) publish a list of designated persons, and
- (b) keep the list up to date.

(2) Where, in accordance with regulation 8 (notification and publicity where designation power used) (as it has effect in the United Kingdom) the Secretary of State is not required to publicise generally a designation, variation or revocation, the Treasury must not include in the list under paragraph (1) any details of that designation, variation or revocation.

(3) The Treasury may publish the list under paragraph (1) in any form the Treasury considers appropriate, including by means of a website.

(4) For the purpose of this regulation, “designated person” means any person for the time being designated by the Secretary of State under regulation 5 (as it has effect in the United Kingdom).”

7. In regulation 9 (confidential information in certain cases where designation power used)—

- (a) in the heading, omit “where designation power used”;
- (b) omit paragraph (1);
- (c) in paragraph (2)(a), for “that is to be treated as confidential in accordance with paragraph (1)” substitute “which the Secretary of State has specified is to be treated as confidential under regulation 9(1) (as it has effect in the United Kingdom)”;
- (d) in paragraph (4)(c), for “enactment” substitute “Manx legislation (within the meaning of section 9 of the Interpretation Act 2015 (of Tynwald))”;
- (e) omit paragraph (7);
- (f) omit paragraph (8).

8. In regulation 10 (meaning of “designated person” in Part 3), for “under regulation 5 for the purposes of regulations 11 to 15” substitute “from time to time by the Secretary of State under regulation 5 (as it has effect in the United Kingdom) for the purposes of regulations 11 to 15 (as they have effect in the United Kingdom)”.

9. For regulation 17 (immigration) substitute—

“17. A person who is designated from time to time by the Secretary of State under regulation 5 (as it has effect in the United Kingdom) for the purposes of regulation 17 (as it has effect in the United Kingdom) is an excluded person for the purposes of section 8B of the Immigration Act 1971(a) (as it has effect in the Isle of Man).”

10. In regulation 18 (finance: exceptions from prohibitions)—

- (a) omit paragraph (6);
- (b) in paragraph (7), for the definition of “relevant institution” substitute—
 - ““relevant institution” means—
 - (a) a person who is licensed under the Financial Services Act 2008 (of Tynwald)(b) to carry on a regulated activity within the meaning of section 3 of that Act,

(a) 1971 c.77. Section 8B was inserted by the Immigration and Asylum Act 1999 (c.33), section 8 and amended by the Immigration Act 2016 (c.19), section 76; and the Sanctions and Anti-Money Laundering Act 2018, section 59 and Schedule 3, Part 1. The Act was extended to the Isle of Man by S.I. 2008/680 (as amended).

(b) AT 8 of 2008.

- (b) a person who is authorised or registered under the Insurance Act 2008 (of Tynwald)(a) or who holds a permit under that Act,
 - (c) a person who is registered under the Moneylenders Act 1991 (of Tynwald)(b) to carry on the business of lending money, or
 - (d) a person who is acting as a trustee or an administrator of a retirement benefits scheme within the meaning of the Retirement Benefits Schemes Act 2008 (of Tynwald)(c).”
- (c) omit paragraph (8).

11. For regulation 19 (exception for acts done for purposes of national security or prevention of serious crime), substitute—

“**19.**—(1) Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance), that prohibition does not apply to the act if the act is one which—

- (a) a UK responsible officer has determined would be in the interests of—
 - (i) national security, or
 - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) an Island responsible officer has determined would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.

(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 6 (Information and records), that requirement does not apply if—

- (a) a UK responsible officer has determined that not doing the thing in question would be in the interests of—
 - (i) national security, or
 - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) an Island responsible officer has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Isle of Man or elsewhere.

(3) In this regulation—

“Department of Home Affairs” means the Department of Home Affairs of the Isle of Man established under section 1 of the Government Departments Act 1987 (of Tynwald)(d);

“Island responsible officer” means a person—

- (a) in the service of the Crown or holding office under the Crown in the Isle of Man,
 - (b) appointed by the Public Services Commission, or
 - (c) appointed as a constable by the Department of Home Affairs,
- acting in the course of that person’s duty;

“Public Services Commission” means the Public Services Commission established by the Public Services Commission Act 2015 (of Tynwald)(e);

“UK responsible officer” means a person in the service of the Crown or holding office under the Crown in the United Kingdom, acting in the course of that person’s duty.”

(a) AT 16 of 2008.
 (b) AT 6 of 1991.
 (c) AT 14 of 2008.
 (d) AT 13 of 1987.
 (e) AT 1 of 2015.

12. In regulation 20 (Treasury licences)—

- (a) in paragraph (3), for “consider” substitute “considers”;
- (b) in paragraph (4), for “issue” substitute “issues”;
- (c) in paragraph (5), for “issue, vary, revoke or suspend” substitute “issues, varies, revokes or suspends”;
- (d) in paragraph (6)—
 - (i) for “issue, vary, revoke or suspend” substitute “issues, varies, revokes or suspends”;
 - (ii) for “consider” substitute “considers”.

13. For regulation 21 (finance: exception for authorised conduct in a relevant country) substitute—

“Finance: exceptions for authorised conduct outside the Isle of Man

21.—(1) Where a person’s conduct outside the Isle of Man would, in the absence of this paragraph, contravene a prohibition in any of regulations 11 to 15 (asset-freeze etc.), the prohibition is not contravened if the conduct is authorised by a licence issued under regulation 20 (Treasury licences) (as it has effect in the United Kingdom).

(2) Where a person’s conduct in a relevant country would, in the absence of this paragraph, contravene a prohibition in any of regulations 11 to 15 (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued—

- (a) under the law of the relevant country, and
- (b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

(3) In this regulation, “relevant country” means—

- (a) any of the Channel Islands;
- (b) any British overseas territory.”

14. In regulation 22 (notices)—

- (a) in paragraph (5)(b), for “United Kingdom”, in both places it occurs, substitute “Isle of Man”;
- (b) in paragraph (6), in the definition of “registered company”, for “in force in the United Kingdom” substitute “in operation in the Isle of Man”.

15. For regulation 24 (section 8B(1) to (3) of the Immigration Act 1971: directions) substitute—

“24.—(1) Any direction of the Secretary of State under regulation 24 (as it has effect in the United Kingdom) that section 8B(1) and (2) of the Immigration Act 1971 (as it has effect in the United Kingdom), or section 8B(3) of that Act (as it has effect in the United Kingdom), have effect subject to specified exceptions in relation to any person whose name is specified or who is of a specified description, has the corresponding effect in the Isle of Man and references to section 8B(1), (2) or (3) of the Immigration Act 1971 shall be construed as references to those subsections as they have effect in the Isle of Man^(a).

(2) In this regulation, “specified” means specified in the direction.”

16. In regulation 25 (finance: reporting obligations)—

- (a) for paragraph (5) substitute—

(a) The Immigration Act 1971 (c.77) was extended to the Isle of Man by S.I. 2008/680 (as amended).

“(5) A relevant institution must inform the Treasury without delay if that institution credits a frozen account in accordance with regulation 18(4) (finance: exceptions from prohibitions).”

(b) in paragraph (7), for the definition of “relevant firm” substitute—

““relevant firm” means—

(a) a business in the regulated sector within the meaning of Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald)(a) (see in particular paragraph 2 of that Schedule);

(b) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—

(i) articles made from gold, silver, platinum or palladium, or

(ii) precious stones or pearls;”;

(c) at the end, insert—

“(8) For the purposes of paragraph (a) of the definition of “relevant firm” in paragraph (7), the definition of “estate agent” in Schedule 4 to the Proceeds of Crime Act 2008 (of Tynwald) is to be read as if references to the sale or proposed sale of land in section 15 of the Estate Agents Act 1975 (of Tynwald)(b) included references to the sale or proposed sale of land outside the Isle of Man.”

17. Omit regulation 26 (“relevant firm”) (including the heading).

18. In regulation 27 (finance: powers to request information), in paragraphs (4) and (6), in each place it occurs, for “believe” substitute “believes”.

19. In regulation 28 (finance: production of documents), in paragraphs (2) and (3), in each place it occurs, for “the Treasury request” substitute “the Treasury requests”.

20. In regulation 29 (finance: information offences), in paragraph (1)(d), for “their” substitute “its”.

21. In regulation 30 (disclosure of information)—

(a) in paragraph (1), omit “Secretary of State or the”;

(b) in paragraph (2)—

(i) after sub-paragraph (c) insert—

“(da) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Isle of Man for an offence under any provisions of these Regulations;”;

(ii) in sub-paragraph (d)(i), after “Regulations” insert “(as they have effect in the United Kingdom)”;

(iii) in sub-paragraph (e), omit “, the Isle of Man,”;

(iv) in sub-paragraph (g), for “United Kingdom” substitute “Isle of Man”;

(c) in paragraph (3)—

(i) in sub-paragraph (f), for “United Kingdom” substitute “Isle of Man”;

(ii) in sub-paragraph (j), for “Secretary of State or the Treasury (as the case may be) consider” substitute “Treasury considers”.

22. In regulation 31 (Part 6: supplementary)—

(a) for paragraph (2) substitute—

“(2) But nothing in that regulation authorises a disclosure—

(a) AT 13 of 2008. Schedule 4 was substituted by SD 2019/0204 (of Tynwald).

(b) AT 6 of 1975.

- (a) that contravenes the data protection legislation, or
- (b) of intercepted material that is not otherwise permitted under the safeguards arrangements relating to a warrant issued under the Interception of Communications Act 1988 (of Tynwald)(a).”
- (b) in paragraph (3), for “counsel or solicitor” substitute “advocate or other legal adviser”;
- (c) in paragraph (6)—
 - (i) for the definition of “the data protection legislation” substitute—

“the data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018 (of Tynwald)(b);”;
 - (ii) in the definition of “privileged information”, omit “(in Scotland, to confidentiality of communications)”.

23. For regulation 32 (penalties for offences) substitute—

“**32.**—(1) A person guilty of an offence under any provision of Part 3 (Finance) or regulation 23 (finance: licensing offences) is liable—

- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 7 years or to a fine, or to both.

(2) A person guilty of an offence under regulation 9(6) (confidentiality) is liable—

- (a) on summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.

(3) A person guilty of an offence under regulation 25(6) or 29 (information offences in connection with Part 3) is liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.

(4) In this regulation, “the standard scale” means the standard scale contained in section 55 of the Interpretation Act 2015 (of Tynwald).”

24. For regulation 34 (jurisdiction to try offences) substitute—

“**34.** Where an offence under these Regulations is committed outside the Isle of Man—

- (a) proceedings for the offence may be taken in the Isle of Man, and
- (b) the offence may for all incidental purposes be treated as having been committed in the Isle of Man.”

25. In regulation 35 (procedure for offences by unincorporated bodies)—

- (a) in paragraph (2), for “England and Wales or Northern Ireland” substitute “the Isle of Man”;
- (b) for paragraph (3)(b) substitute—

“(b) section 32 of the Summary Jurisdiction Act 1989 (of Tynwald)(c) applies as it applies in relation to a body corporate.”

26. In regulation 36 (time limit for proceedings for summary offences)—

- (a) in paragraphs (1) and (3), for “prosecutor” and “prosecutor’s”, in each place that they occur, substitute “Attorney General” and “Attorney General’s”;

(a) AT 18 of 1998.

(b) SD 2018/0145 (of Tynwald).

(c) AT 15 of 1989.

(b) omit paragraph (4);

(c) at the end, insert—

“(5) In this regulation, “Attorney General” has the meaning given in the Interpretation Act 2015 (of Tynwald).”

27. Omit regulation 37 (application of Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005(a)) (including the heading).

28. In Schedule 2 (Treasury licences: purposes)—

(a) in the definition of “frozen funds or economic resources” in paragraph 1, for “the designation of that person for the purpose of that regulation” substitute “that person being a designated person for the purposes of Part 3 (Finance) as defined in regulation 10 (meaning of “designated person” in Part 3)”;

(b) in paragraph 6(b)(ii) (pre-existing judicial decisions etc.), for “United Kingdom” substitute “Isle of Man”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends with modifications the Global Human Rights Sanctions Regulations 2020 (S.I. 2020/680) (“the GHRS Regulations”) as amended from time to time to the Isle of Man.

Section 63(3)(b) of the Sanctions and Anti-Money Laundering Act 2018 (c.13) (“the Sanctions Act”) provides that Her Majesty may by Order in Council provide for any provision of Part 1 of that Act, or any regulations under Part 1 of that Act, to extend with or without modifications to the Isle of Man. Section 63(4) provides that this includes the power to extend any regulations as amended from time to time.

The GHRS Regulations were made under Part 1 of the Sanctions Act to establish a sanctions regime for the purpose of deterring, and providing accountability for, activities which, if carried out by or on behalf of a State, would amount to serious violations of certain human rights by that State. The activities could be carried out by a State or non-State actor.

The GHRS Regulations, as modified and extended to the Isle of Man by this Order (“the modified Regulations”), provide that a person designated by the Secretary of State for being, or having been, involved in such activities, is a designated person for the purposes of the modified Regulations. Designated persons may be excluded from the Isle of Man and may be made subject to financial sanctions, including having their funds or economic resources frozen.

The modified Regulations provide for certain exceptions to this sanctions regime (for example to allow for frozen accounts to be credited with interest or other earnings and to allow acts done for the purpose of national security or the prevention of serious crime). The Treasury of the Isle of Man may issue a licence in respect of activities that would otherwise be prohibited under the modified Regulations. Schedule 2 sets out the purposes under which the Treasury of the Isle of Man will issue such licences. The modified Regulations also require the Treasury of the Isle of Man to publish an up-to-date list of designated persons.

The modified Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime. The modified Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in the modified Regulations and prescribe the mode of trial and penalties that apply to such offences.

(a) 2005 c.15. Chapter 1 of Part 2 has been amended by the Terrorism Act 2006 (c.11), section 33(3) and (4); the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33), sections 26(2) and 30(2) and Schedules 3 and 5; the Bribery Act 2010 (c.23), section 17(2) and Schedule 1; the Criminal Justice and Licensing (Scotland) Act 2010 (asp.13), section 203 and Schedule 7, paragraph 77; the Crime and Courts Act 2013 (c.22), section 15 and Schedule 8, paragraphs 157 and 159; the Criminal Finances Act 2017 (c.22), section 51(1); the Sanctions and Anti-Money Laundering Act 2018, section 59(4) and Schedule 3, paragraph 4; and S.I. 2014/834.

This Order also extends to the Isle of Man for the purposes of the modified Regulations specific provisions of Part 1 of the Sanctions Act, namely provisions relating to guidance about prohibitions and requirements, protection for acts done for purposes of compliance and saving for prerogative powers.

An Impact Assessment has not been prepared for this instrument because the territorial extent of the instrument is the Isle of Man: no, or no significant, impact is foreseen on the private, voluntary or public sector in the United Kingdom.

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