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STATUTORY INSTRUMENTS

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**2020 No. 948**

**The Afghanistan (Sanctions) (EU Exit) Regulations 2020**

**PART 5**

Exceptions and licences

**Finance: exceptions from prohibitions**

**25.**—(1) The prohibition in regulation 8 (asset-freeze in relation to designated persons) is not contravened by an independent person (“P”) transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—

- (a) is held by P, and
- (b) is not held jointly with the designated person.

(2) In paragraph (1) “independent person” means a person who—

- (a) is not the designated person, and
- (b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

(3) The prohibitions in regulations 8 to 10 (asset-freeze in relation to, and making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account with interest or other earnings due on the account.

(4) The prohibitions in regulations 9 and 10 (making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account where it receives funds transferred to that institution for crediting to that account.

(5) The prohibitions in regulations 9 and 10 are not contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.

(6) The prohibitions in regulations 8 to 10 are not contravened in relation to a designated person (“P”) by a transfer of funds from account A to account B, where—

- (a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000 <sup>M1</sup>,
- (b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000 <sup>M2</sup>, and
- (c) accounts A and B are held or controlled (directly or indirectly) by P.

(7) In this regulation—

“designated person” has the same meaning as it has in Part 3 (Finance);

“frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person;

“relevant institution” means a person that has permission under Part 4A of the Financial Services and Markets Act 2000<sup>M3</sup> (Permission to carry on regulated activities).

(8) The definition of “relevant institution” in paragraph (7) is to be read with section 22 of the Financial Services and Markets Act 2000<sup>M4</sup>, any relevant order under that section<sup>M5</sup> and Schedule 2 to that Act<sup>M6</sup>.

#### Commencement Information

**I1** Reg. 25 in force at 31.12.2020 by S.I. 2020/1514, reg. 16(2)

#### Marginal Citations

- M1** 2000 c.8. Section 142D was inserted by the [Financial Services \(Banking Reform\) Act 2013 \(c.33\), section 4\(1\)](#).
- M2** Section 142A was inserted by the [Financial Services \(Banking Reform\) Act 2013, section 4\(1\)](#).
- M3** Part 4A was inserted by the [Financial Services Act 2012 \(c.21\), section 11\(2\)](#) and most recently amended by [S.I. 2018/546](#); it is prospectively amended by [S.I. 2019/632](#).
- M4** Section 22 was amended by the [Financial Guidance and Claims Act 2018 \(c.10\), section 27\(4\)](#); the [Financial Services Act 2012 \(c.21\), section 7\(1\)](#); and [S.I. 2018/135](#).
- M5** [S.I. 2001/544](#), as most recently amended by [S.I. 2019/679](#); [S.I. 2020/117](#); and [S.I. 2020/480](#); it is amended and prospectively amended by [S.I. 2019/632](#); and it is prospectively amended by [S.I. 2019/710](#).
- M6** Schedule 2 was amended by the [Regulation of Financial Services \(Land Transactions\) Act 2005 \(c.24\), section 1](#); the [Dormant Bank and Building Society Accounts Act 2008 \(c.31\), section 15](#) and Schedule 2, paragraph 1; the [Financial Services Act 2012, sections 7\(2\) to \(5\) and 8](#); the [Financial Guidance and Claims Act 2018, section 27\(13\)](#); [S.I. 2013/1881](#); and [S.I. 2018/135](#); and it is prospectively amended by [S.I. 2019/632](#).

#### [<sup>F1</sup>Finance: exception for humanitarian assistance and other activities

**25A.**—(1) The prohibitions in regulations 8 to 12 (asset-freeze etc.) are not contravened by a person (“P”) carrying out a relevant activity which is necessary—

- (a) to ensure the timely delivery of humanitarian assistance in Afghanistan, or
- (b) to carry out other activities that support basic human needs in Afghanistan,

provided that P believes that carrying out the relevant activity is so necessary and there is no reasonable cause for P to suspect otherwise.

(2) For the purposes of paragraph (1), “relevant activity” means any activity which would, in the absence of this regulation, contravene the prohibitions in regulations 8 to 12.]

#### Textual Amendments

**F1** [Reg. 25A](#) inserted (28.1.2022) by [The Afghanistan \(Sanctions\) \(EU Exit\) \(Amendment\) Regulations 2022 \(S.I. 2022/65\), regs. 1\(2\), 2\(2\)](#)

#### Exception for authorised conduct in a relevant country

**26.**—(1) Where a person's conduct in a relevant country would, in the absence of this regulation, contravene a prohibition in any of regulations 8 to 12 (asset-freeze etc.) (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued—

- [<sup>F2</sup>(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.]
- (2) In this regulation, “relevant country” means—
- (a) any of the Channel Islands;
  - (b) the Isle of Man;
  - (c) any British overseas territory.
- (3) Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.

#### Textual Amendments

- F2** Reg. 26(1)(a)(b) inserted (31.12.2020 immediately after IP completion day) by [The Sanctions \(EU Exit\) \(Miscellaneous Amendments\) \(No. 5\) Regulations 2020 \(S.I. 2020/1397\)](#), regs. 1(2), **3(2)**; [S.I. 2020/1514](#), **reg. 22**

#### Commencement Information

- I2** Reg. 26 in force at 31.12.2020 by [S.I. 2020/1514](#), **reg. 16(2)**

### Exception for acts done for purposes of national security or prevention of serious crime

**27.**—(1) Where an act would, in the absence of this paragraph, be prohibited by any prohibition in Part 3 (Finance) or Part 4 (Trade), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of—

- (a) national security, or
- (b) the prevention or detection of serious crime in the United Kingdom 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) or Part 8 (Maritime enforcement), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—

- (a) national security, or
- (b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(3) In this regulation “responsible officer” means a person in the service of the Crown or holding office under the Crown, acting in the course of that person's duty.

(4) Nothing in this regulation affects the application of a prohibition or requirement in a case where it would be incompatible with a UN obligation for the prohibition or requirement not to apply.

#### Commencement Information

- I3** Reg. 27 in force at 31.12.2020 by [S.I. 2020/1514](#), **reg. 16(2)**

### Treasury licences

**28.**—(1) The prohibitions in regulations 8 to 12 (asset-freeze etc.) do not apply to anything done under the authority of a licence issued by the Treasury under this paragraph.

(2) The Treasury may issue a licence which authorises acts in relation to a designated person only where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Schedule 2.

(3) A licence under paragraph (1)—

- (a) must specify the acts authorised by it;
- (b) may be general or may authorise acts by a particular person or persons of a particular description;
- (c) may—
  - (i) contain conditions;
  - (ii) be of indefinite duration or a defined duration.

(4) Where the Treasury issue a licence under paragraph (1), the Treasury may vary, revoke or suspend it at any time.

(5) Where the Treasury issue, vary, revoke or suspend a licence under paragraph (1) which authorises acts by a particular person, the Treasury must give written notice to that person of the issue, variation, revocation or suspension of the licence.

(6) Where the Treasury issue, vary, revoke or suspend a general licence or a licence which authorises acts by persons of a particular description under paragraph (1), the Treasury must take such steps as the Treasury consider appropriate to publicise the issue, variation, revocation or suspension of the licence.

[<sup>F3</sup>(7) In this regulation, “designated person” has the same meaning as it has in Part 3 (Finance).]

#### Textual Amendments

**F3** Reg. 28(7) inserted (9.8.2022) by [The Sanctions \(EU Exit\) \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/819\)](#), regs. 1(2), **15(2)**

#### Commencement Information

**I4** Reg. 28 in force at 31.12.2020 by [S.I. 2020/1514](#), reg. **16(2)**

### Finance: licensing offences

**29.**—(1) A person (“P”) commits an offence if P knowingly or recklessly—

- (a) provides information that is false in a material respect, or
- (b) provides or produces a document that is not what it purports to be,

for the purpose of obtaining a Treasury licence (whether for P or anyone else).

(2) A person who purports to act under the authority of a Treasury licence but who fails to comply with any condition of the licence commits an offence.

#### Commencement Information

**I5** Reg. 29 in force at 31.12.2020 by [S.I. 2020/1514](#), reg. **16(2)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Afghanistan (Sanctions) (EU Exit) Regulations 2020, PART 5.