

EXPLANATORY MEMORANDUM TO

THE SOMALIA (SANCTIONS) (EU EXIT) (AMENDMENT) REGULATIONS 2021

2021 No. 823

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office 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 This instrument is made under the Sanctions and Anti-Money Laundering Act 2018 ('the Sanctions Act') to make amendments to the Somalia (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/642) ('the Somalia Regulations').

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument corrects errors in the Somalia Regulations and is being issued free of charge to all known recipients of that Statutory Instrument. The corrections are described in paragraph 7.3 and 7.4 of this memorandum.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the same as the territorial extent of the instrument that it amends: that is, the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is also the same as the territorial application of the instrument that it amends. That is, it applies to the whole of the United Kingdom. This instrument also applies to conduct by UK persons where that conduct is wholly or partly outside the UK, and some parts of it also apply to conduct by any person in the territorial sea adjacent to the UK. In addition, the maritime enforcement powers contained in Part 9 of the Somalia Regulations apply in relation to British ships in international or foreign waters, ships without nationality in international waters and foreign ships in international waters.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 This instrument is made in exercise of powers conferred by sections 1 and 45 of the Sanctions Act. Previous instruments to use these powers to make amendments to regulations made under the Sanctions Act are the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/843), the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), the Sanctions (EU Exit) (Miscellaneous Amendments) (No.2) Regulations 2020 (S.I. 2020/590), the Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020 (S.I. 2020/950), the Sanctions (EU Exit) (Miscellaneous Amendments) (No.4) Regulations 2020 (S.I. 2020/951) and the Sanctions (EU Exit) (Miscellaneous Amendments) (No.5) Regulations 2020 (S.I. 2020/1397).
- 6.2 This instrument makes amendments to the Somalia Regulations, which were made under the Sanctions Act for the purposes of compliance with UN obligations, as well as for discretionary purposes within section 1(2) of the Sanctions Act.

7. Policy background

What is being done and why?

- 7.1 The purpose of this instrument is to amend the Somalia Regulations to ensure that the UK implements its obligations under UN Security Council Resolution (UNSCR) 2551 (2020) which impose additional measures to limit the import of Improvised Explosive Device ('IED') components into Somalia. It also makes amendments and corrections to the Somalia Regulations as set out below.
- 7.2 This instrument adds nitroglycerin to the list of explosive materials in the table in paragraph 3(4) in Part 3 of Schedule 2 of the Somalia Regulations, with an exception for where it is packaged or prepared in individual medicinal doses. This is required to implement the obligation in paragraph 26 of UNSCR 2551, which added nitroglycerin to the list of prohibited IED components in UNSCR 2498 in response to a recommendation from the Panel of Experts. This instrument amends the list of the relevant UN obligations in regulation 4(3) (purposes) to include paragraph 26 of UNSCR 2551.
- 7.3 This instrument also removes tetryl from the list of prohibited explosive materials in the table in paragraph 3(4) in Part 3 of Schedule 2 of the Somalia Regulations. This is because it is already controlled under the arms embargo by virtue of being specified in Part 1 of Schedule 2 of the Export Control Order 2008.
- 7.4 This instrument also amends Part 3 of Schedule 2 of the Somalia Regulations to add technology required for the production or use of nitrocellulose and nitroglycerin to the list of items covered by the trade prohibitions in Chapter 2 of Part 5 of the Somalia Regulations. This is required to implement the obligations under paragraph 26 of UNSCR 2498 and paragraph 26 of UNSCR 2551, and corrects an omission in the Somalia Regulations. This instrument also corrects a typographical error in paragraph 3(6) in Part 3 of Schedule 2 of the Somalia Regulations.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument makes minor amendments to existing sanctions regulations. Therefore, there is no need for consolidation. The Foreign, Commonwealth and Development Office will keep the need for consolidation under review.

10. Consultation outcome

- 10.1 No consultation has been carried out on this instrument. The Explanatory Memorandum to the Somalia Regulations explains the consultation that has been carried out in relation to the Sanctions Act.

11. Guidance

- 11.1 In accordance with section 43 of the Sanctions Act, guidance is published in relation to the prohibitions and requirements under the Somalia Regulations which are amended by this instrument. This guidance will be updated to reflect the amendments to those Regulations made by this instrument.

12. Impact

- 12.1 The Foreign, Commonwealth & Development Office has undertaken a De Minimis impact assessment to estimate costs to UK businesses and wider impacts resulting from this instrument. We have estimated the costs to be beneath the threshold of £5m per annum for a full impact assessment, with costs resulting primarily from adding nitroglycerin to the list of prohibited explosive materials.
- 12.2 Direct trade data suggests there are no exports from the UK to Somalia of either nitroglycerin or technology required for its production or use, nor the transfer of technology required for the production or use of nitroglycerin and nitrocellulose. It has not been possible, given data constraints, to quantify the scale of supply and delivery (outside the UK), sale and transfer of technology related to these goods. However, given the limited UK-Somalia trade relationship and the available evidence of trade in the goods concerned, we assess the impact to be negligible. Furthermore, the affected products comprise a small share of UK goods exports and Somalia is a relatively low-value importer of these products. This suggests that there is limited potential for UK exporters to export these products to Somalia, which means the prohibition is likely to have a negligible impact.
- 12.3 Therefore, we would not expect monetary benefits/costs to UK businesses due to the prohibitions imposed by this instrument.
- 12.4 A De Minimis impact assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the [legislation.gov.uk](https://www.legislation.gov.uk) website.
- 12.5 An impact assessment was also 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 Sanctions 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.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

- 13.2 No specific action is proposed to mitigate regulatory burdens on small businesses.
- 13.3 We estimate that the impact on small businesses in the UK will be minimal. The Foreign, Commonwealth and Development Office does not believe it is possible to exempt smaller businesses from the requirements to comply with this instrument, as this could provide a route for the circumvention or evasion of sanctions.

14. Monitoring & review

- 14.1 Section 30 of the Sanctions Act requires regular reviews of the Somalia Regulations which are amended by this instrument. However, section 30 does not apply to this instrument, by virtue of section 45(6) of the Sanctions Act. As such, the Minister does not consider that a review clause in this instrument is appropriate.

15. Contact

- 15.1 James Donovan at the Foreign, Commonwealth and Development Office, email: Sanctions.SIs@fcdof.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Lisa Maguire, Deputy Director for Multilateral, Sanctions and Strategic Engagement at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Ahmad, Minister of State for South Asia and the Commonwealth at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.