

## SCHEDULE 2

Article 2

### Modifications to be made in the extension of the Haiti (Sanctions) Regulations 2022 to each British overseas territory listed in Schedule 1

1. In regulation 1 (citation and commencement)—
  - (a) in the heading, omit “and commencement”;
  - (b) omit paragraph (2) (commencement).

#### Commencement Information

**II** Sch. 2 para. 1 in force at 28.12.2022, see [art. 1\(1\)](#)

2. In regulation 2 (interpretation)—
  - (a) the existing text becomes paragraph (1);
  - (b) in that paragraph—
    - (i) in the appropriate places, insert the following definitions—
      - ““aircraft” has the same meaning as it has in section 6(9) of the Act;”;
      - ““authorised officer” means, in relation to the Territory—
        - (a) a member of His Majesty’s forces in the Territory,
        - (b) a police or customs officer of the Territory,
        - (c) a person authorised by the Governor for the purposes of exercising, whether generally or in a particular case, any power conferred by—
          - (i) regulation 33 (finance: powers to request information),
          - (ii) regulation 34 (finance: production of documents),
          - (iii) regulation 36 (trade: information powers),
          - (iiia) [<sup>F1</sup>regulation 36B (general trade licences: inspection of records),]
          - (v) regulation 37 (disclosure of information),
          - (vi) regulation 39A (suspected ships, aircraft or vehicles), or
          - (vii) regulation 39B (search warrants), or
        - (d) any person acting under the authority of a person falling within any of paragraphs (a) to (c);”
    - ““financial sanctions licence” means, in relation to the Territory, a licence issued by the Governor under regulation 29(1);”;
    - ““the Governor” is to be read in accordance with regulation 4A;”;
    - ““His Majesty’s forces” does not include a force of any country, other than the United Kingdom, that is a member of the Commonwealth;”;
    - ““ship” has the same meaning as it has in section 7(14) of the Act;”;
    - ““territorial sea of the Territory” means the territorial sea as defined in an enactment applicable in the Territory or, in the absence of such an enactment, the territorial sea adjacent to the Territory;”;
    - ““Territory aircraft” means, in relation to the Territory—
      - (a) an aircraft registered in the Territory, or

**Changes to legislation:** There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2. (See end of Document for details)

- (b) an aircraft which is not registered under the law of a country outside the Territory but is wholly owned by persons each of whom is a Territory person;”;

““Territory person” means, in relation to the Territory, a person who is—

- (a) an individual ordinarily resident in the Territory 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(1) 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 any part of the Territory;”;

““Territory ship” means, in relation to the Territory—

- (a) a ship registered in the Territory, or
- (b) a ship which is not registered under the law of a country outside the Territory but is wholly owned by persons each of whom is a Territory person;”;

““vehicle” means a land transport vehicle.”

- (ii) omit the definitions of—

- (aa) “the Commissioners”,
- (bb) “Treasury licence”, and
- (cc) “United Kingdom person”;

- (c) after that paragraph insert—

“(2) In the application of these Regulations to a particular British overseas territory, the expression “the Territory” means that territory.”

#### Textual Amendments

- F1** Words in [Sch. 2 para. 2](#) inserted (28.12.2023) by [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), 3

#### Commencement Information

- I2** Sch. 2 para. 2 in force at 28.12.2022, see [art. 1\(1\)](#)

- 3. In regulation 3 (application of prohibitions and requirements outside the United Kingdom)—
  - (a) in the heading, for “United Kingdom” substitute “Territory”;
  - (b) in paragraphs (1) and (4), for “United Kingdom person” substitute “Territory person”;
  - (c) in paragraphs (1), (4) and (7), for “United Kingdom” substitute “Territory”;
  - (d) in paragraphs (2) and (5), after “in the territorial sea” insert “of the Territory”;
  - (e) in paragraphs (3) and (6), for “Treasury licence” substitute “financial sanctions licence”.

(1) 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).

**Commencement Information**

**I3** Sch. 2 para. 3 in force at 28.12.2022, see [art. 1\(1\)](#)

4. In regulation 4 (purposes), for “the regulations contained in this instrument that are made under section 1 of the Act” substitute “these Regulations”.

**Commencement Information**

**I4** Sch. 2 para. 4 in force at 28.12.2022, see [art. 1\(1\)](#)

5. At the end of Part 1 (General), insert—

**“Functions of the Governor**

4A.—(1) In these Regulations, “the Governor” means, in relation to the Territory, the person holding or acting in the office of Governor of the Territory, or, if there is no such office, the officer for the time being administering the Territory.

(2) The Governor may, to such extent and subject to such restrictions and conditions as the Governor thinks proper, delegate or authorise the delegation of any of the Governor’s powers under these Regulations to any person, or class or description of persons, and any references in these Regulations to the Governor are to be construed accordingly.

(3) In the exercise of any power conferred on the Governor by these Regulations, the Governor is to act in their discretion.”

**Commencement Information**

**I5** Sch. 2 para. 5 in force at 28.12.2022, see [art. 1\(1\)](#)

6. After regulation 5 (designation of persons named under UN Security Council Resolutions) insert—

**“Requirement to publish a list of designated persons**

5A.—(1) The Governor must—

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

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

(3) For the purpose of this regulation, “designated person” means—

- (a) a person who is a designated person for the purposes of regulations 8 to 12 (asset-freeze etc.) (as they have effect in the United Kingdom) by reason of regulation 5(1) (designation of persons named under UN Security Council Resolutions) (as it has effect in the United Kingdom), and
- (b) a person who is a designated person for the purposes of regulations 15 to 22 (trade) (as they have effect in the United Kingdom) by reason of regulation 5(2) (as it has effect in the United Kingdom).”

**Changes to legislation:** There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2. (See end of Document for details)

**Commencement Information**

**I6** Sch. 2 para. 6 in force at 28.12.2022, see [art. 1\(1\)](#)

7. In regulation 14 (interpretation of expressions used in this Part)—

(a) for paragraph (1) substitute—

“(1) For the purposes of this Part—

(a) “export” means export from the Territory, and

(b) goods transported out of the Territory by aircraft or ship as stores within the meaning of CEMA (see section 1(1) and (4) of that Act) are to be regarded as exported.

(1A) Paragraph 36 of Schedule 1 to the Act (trade sanctions) applies for the purpose of interpreting expressions in this Part.”

(b) for paragraph (2) substitute—

“(2) In this Part, any reference to the Territory includes a reference to the territorial sea of the Territory.”

**Commencement Information**

**I7** Sch. 2 para. 7 in force at 28.12.2022, see [art. 1\(1\)](#)

[<sup>F2</sup>8. In regulation 15 (export of small arms, light weapons and ammunition), at the end insert—

“(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with the offence of contravening paragraph (1) (“P”) to show that P did not know and had no reasonable cause to suspect that the export was to, or for use in, Haiti.”]

**Textual Amendments**

**F2** Sch. 2 para. 8 substituted (28.12.2023) by [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), 4

9. In regulation 16 (supply and delivery of [<sup>F3</sup>small arms, light weapons and ammunition]), in paragraph (4) for “United Kingdom or the Isle of Man” substitute “Territory”.

**Textual Amendments**

**F3** Words in Sch. 2 para. 9 substituted (28.12.2023) by [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), 5

**Commencement Information**

**I8** Sch. 2 para. 9 in force at 28.12.2022, see [art. 1\(1\)](#)

<sup>F4</sup>10. ....

**Textual Amendments**

**F4** Sch. 2 para. 10 omitted (28.12.2023) by virtue of [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), 6

**F5** 11. ....

**Textual Amendments**

**F5** Sch. 2 para. 11 omitted (28.12.2023) by virtue of [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), 6

**12.** In regulation 25 (finance: exceptions from prohibitions)—

(a) omit paragraph (6);

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

““relevant institution”, in relation to the Territory, means a person domiciled in the Territory who would satisfy the threshold conditions for permission under Part 4A of the Financial Services and Markets Act 2000(2) if it had its registered office (or if it does not have one, its head office) in the United Kingdom.”;

(c) omit paragraph (8).

**Commencement Information**

**I9** Sch. 2 para. 12 in force at 28.12.2022, see [art. 1\(1\)](#)

**13.** For regulation 27 (exception for authorised conduct in a relevant country) substitute—

**“Exceptions for authorised conduct outside the Territory**

**27.—**(1) Where a person’s conduct outside the Territory would, in the absence of this paragraph, contravene a prohibition in any of regulations 8 to 12 (asset-freeze etc.), the prohibition is not contravened if the conduct is authorised by a licence issued under regulation 29 (Treasury licences) (as it has effect in the United Kingdom) [<sup>F6</sup>or regulation 29A (trade 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 8 to 12 (“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) the Isle of Man, or

(2) 2000 c. 8. Part 4A was inserted by the Financial Services Act 2012 (c. 21), section 11(2) and most recently amended by S.I. 2019/632.

*Changes to legislation: There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2. (See end of Document for details)*

(c) any British overseas territory other than the Territory.

(4) 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

**F6** Words in Sch. 2 para. 13 inserted (28.12.2023) by [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), 7

#### Commencement Information

**I10** Sch. 2 para. 13 in force at 28.12.2022, see [art. 1\(1\)](#)

**14.** For regulation 28 (exception for acts done for purposes of national security or prevention of serious crime), substitute—

“**28.**—(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) a 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) the Governor, with the consent of the Secretary of State, has determined would be in the interests of the prevention or detection of serious crime in the Territory.

(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 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) the Governor, with the consent of the Secretary of State, has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Territory.

(3) In this regulation, “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.

(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

**I11** Sch. 2 para. 14 in force at 28.12.2022, see [art. 1\(1\)](#)

**15.** For regulation 29 (Treasury licences), substitute—

### “Financial sanctions licences

**29.**—(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 Governor under this paragraph.

(2) The Governor may issue a financial sanctions licence only with the consent of the Secretary of State.

(3) A financial sanctions licence—

- (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) The Governor may issue a financial sanctions licence which authorises acts by a particular person only where the Governor considers that it is appropriate to issue the licence for a purpose set out in Schedule 2.

(5) Where the Governor issues a financial sanctions licence, the Governor may, with the consent of the Secretary of State, vary, revoke or suspend it at any time.

(6) Where the Governor issues, varies, revokes or suspends a financial sanctions licence which authorises acts by a particular person, the Governor must give written notice to that person of the issue, variation, revocation or suspension of the licence.

(7) Where the Governor issues, varies, revokes or suspends a financial sanctions licence which is general or which authorises acts by persons of a particular description, the Governor must take such steps as the Governor considers appropriate to publicise the issue, variation, revocation or suspension of the licence.”

#### Commencement Information

**I12** Sch. 2 para. 15 in force at 28.12.2022, see [art. 1\(1\)](#)

[<sup>F7</sup>**15A.** In regulation 29A (trade licences)—

- (a) the existing text become paragraph (1);
- (b) in that paragraph, for “Secretary of State”, substitute “Governor”;
- (c) at the end insert—

“(2) The Governor may issue a licence under paragraph (1) only with the consent of the Secretary of State.”]

#### Textual Amendments

**F7** Sch. 2 para. 15A inserted (28.12.2023) by [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), **8**

**16.** In regulation 30 (finance: licensing offences), for “Treasury licence”, in both places it occurs, substitute “financial sanctions licence”.

**Commencement Information**

**I13** Sch. 2 para. 16 in force at 28.12.2022, see [art. 1\(1\)](#)

**17.** In regulation 31 (finance: reporting obligations)—

- (a) for “Treasury”, in each place it occurs, substitute “Governor”;
- (b) for paragraph (5) substitute—

“(5) A relevant institution must inform the Governor without delay if that institution credits a frozen account in accordance with regulation 25(4) (finance: exceptions from prohibitions).”

**Commencement Information**

**I14** Sch. 2 para. 17 in force at 28.12.2022, see [art. 1\(1\)](#)

**18.** For regulation 32 (“relevant firm”) substitute—

“**32.**—(1) The following are relevant firms for the purposes of regulation 31 (finance: reporting obligations)—

- (a) a relevant institution;
- (b) an undertaking that by way of business—
  - (i) operates a currency exchange office,
  - (ii) transmits money (or any representation of monetary value) by any means, or
  - (iii) cashes cheques that are made payable to customers;
- (c) a firm or sole practitioner that provides to other persons, by way of business—
  - (i) accountancy services,
  - (ii) advice about tax affairs,
  - (iii) auditing services,
  - (iv) legal or notarial services, or
  - (v) trust or company services;
- (d) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;
- (e) the holder of a licence to operate a casino in the Territory;
- (f) 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;
- (g) a cryptoasset exchange provider;
- (h) a custodian wallet provider.

(2) For the purposes of paragraph (1), the following definitions apply—

“cryptoasset exchange provider” means a firm or sole practitioner that by way of business provides one or more of the following services, including where the firm or sole practitioner does so as creator or issuer of any of the cryptoassets involved—



- (a) exchanging, or arranging or making arrangements with a view to the exchange of, cryptoassets for money or money for cryptoassets,
- (b) exchanging, or arranging or making arrangements with a view to the exchange of, one cryptoasset for another, or
- (c) operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets;

“custodian wallet provider” means a firm or sole practitioner that by way of business provides services to safeguard, or to safeguard and administer—

- (a) cryptoassets on behalf of its customers, or
- (b) private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets;

“estate agency work”, in relation to the Territory, is to be read in accordance with section 1 of the Estate Agents Act 1979<sup>(3)</sup>, but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of that Act) references to disposing of or acquiring an estate or interest in land outside the Territory where that estate or interest is capable of being owned or held as a separate interest;

“firm” means any entity that, whether or not a legal person, is not an individual, and includes a body corporate and a partnership or other unincorporated body;

“relevant institution” has the same meaning as it has in regulation 25(7);

“trust or company services” means any of the following services—

- (a) forming companies or other legal persons;
  - (b) acting, or arranging for another person to act—
    - (i) as a director or secretary of a company,
    - (ii) as a partner of a partnership, or
    - (iii) in a similar capacity in relation to other legal persons;
  - (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
  - (d) acting, or arranging for another person to act, as—
    - (i) a trustee of an express trust or similar legal arrangement, or
    - (ii) a nominee shareholder for a person.
- (3) For the purposes of this regulation—
- (a) “cryptoasset” means a cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically;
  - (b) “money” means—
    - (i) money in sterling,
    - (ii) money in any other currency, or
    - (iii) money in any other medium of exchange,

---

(3) 1979 c. 38. Section 1 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), Schedule 1, paragraph 40; the Planning (Consequential Provisions) Act 1990 (c. 11), Schedule 2, paragraph 42; the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11), Schedule 2, paragraph 28; the Enterprise and Regulatory Reform Act 2013 (c. 24), section 70; S.I. 1991/2684; S.I. 2000/121; and S.I. 2001/1283.

**Changes to legislation:** There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2. (See end of Document for details)

but does not include a cryptoasset; and

(c) in sub-paragraphs (a) to (c) of the definition of “cryptoasset exchange provider” in paragraph (2), “cryptoasset” includes a right to, or interest in, the cryptoasset.

(4) For the purposes of regulation 31(1), information or another matter comes to a relevant firm “in the course of carrying on its business” if the information or other matter comes to the firm—

(a) in the case of a relevant firm within paragraph (1)(a), in the course of carrying on an activity in respect of which permission under Part 4A of the Financial Services and Markets Act 2000 would be required if it had its registered office (or if it does not have one, its head office) in the United Kingdom, and

(b) in the case of a relevant firm within any other provision of paragraph (1), in the course of carrying on an activity mentioned in that provision.”

#### Commencement Information

**I15** Sch. 2 para. 18 in force at 28.12.2022, see [art. 1\(1\)](#)

**19.** In regulation 33 (finance: powers to request information)—

(a) in paragraph (1), for “The Treasury” substitute “An authorised officer”;

(b) in paragraph (2)—

(i) for “The Treasury”, in the first place it occurs, substitute “An authorised officer”;

(ii) for “the Treasury”, in the second place it occurs, substitute “the authorised officer”;

(c) in paragraph (4), for “the Treasury believe” substitute “the authorised officer believes”;

(d) in paragraph (5)—

(i) for “The Treasury” substitute “An authorised officer”;

(ii) for “Treasury licence” substitute “financial sanctions licence”;

(e) for paragraph (6) substitute—

“(6) An authorised officer may request a person to provide information within paragraph (7) if the authorised officer believes that the person may be able to provide the information.”;

(f) in paragraph (7)—

(i) for “the Treasury” substitute “the authorised officer”;

(ii) in sub-paragraph (b)(iii), for “Treasury licence” substitute “financial sanctions licence”;

(g) in paragraph (8), for “The Treasury” substitute “The authorised officer”;

(h) in paragraph (10), for “the Treasury”, in both places it occurs, substitute “the authorised officer”.

#### Commencement Information

**I16** Sch. 2 para. 19 in force at 28.12.2022, see [art. 1\(1\)](#)

**20.** In regulation 34 (finance: production of documents)—

- (a) in paragraph (2), for “the Treasury request that documents be produced, the Treasury” substitute “an authorised officer requests that documents be produced, the authorised officer”;
- (b) for paragraph (3), substitute—
  - “(3) Where an authorised officer requests a designated person or a person acting under a financial sanctions licence to produce documents, that person must—
    - (a) take reasonable steps to obtain the documents (if they are not already in the person’s possession or control);
    - (b) keep the documents under the person’s possession or control (except for the purpose of providing them to the authorised officer or as the authorised officer may otherwise permit).”

**Commencement Information**

**I17** Sch. 2 para. 20 in force at 28.12.2022, see [art. 1\(1\)](#)

**21.** In regulation 35 (finance: information offences), in paragraph (1)(d), for “the Treasury” substitute “an authorised officer”.

**Commencement Information**

**I18** Sch. 2 para. 21 in force at 28.12.2022, see [art. 1\(1\)](#)

**22.** For regulation 36 (trade: application of information powers in CEMA) substitute—

**“Trade: information powers**

**36.—(1)** An authorised officer may request a person who is concerned (in whatever capacity) in a relevant activity to provide such information as the authorised officer may reasonably require about the relevant activity.

(2) The authorised officer may specify the way in which, and the period within which, information is to be provided.

(3) If no such period is specified, the information which has been requested must be provided within a reasonable time.

(4) A request under paragraph (1) may include a request to produce specified documents or documents of a specified description.

(5) Where the authorised officer requests that documents be produced, the authorised officer may—

- (a) take copies or extracts from any document so produced,
  - (b) request any person producing a document to give an explanation of it,
  - (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
    - (i) in the case of a partnership, a present or past partner or employee of the partnership, or
    - (ii) in any other case, a present or past officer or employee of the body concerned,
- to give such an explanation, and

**Changes to legislation:** There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2. (See end of Document for details)

- (d) remove, at a reasonable time and for a reasonable period, any document so produced if the authorised officer considers it is necessary to do so.
- (6) Where a document has been removed by an authorised officer under paragraph (5) (d)—
- (a) the authorised officer must, on request, provide a receipt for the document;
  - (b) if the document is reasonably required for the proper conduct of a business, the authorised officer must, as soon as practicable and free of charge, provide a copy of the document to the person who produced it.
- (7) Where a document requested to be produced under paragraph (4) is subject to a lien, the production or removal of the document in accordance with this regulation does not affect, and is not to be regarded as breaking, the lien.
- (8) For the purposes of paragraph (1), a “relevant activity” means an activity which would [<sup>F8</sup>, unless done under the authority of a trade licence,] constitute a contravention of any prohibition in Part 4 (Trade).”

#### Textual Amendments

**F8** Words in Sch. 2 para. 22 inserted (28.12.2023) by The Haiti (Sanctions) (Overseas Territories) (Amendment) Order 2023 (S.I. 2023/1383), arts. 1(1), 9

#### Commencement Information

**I19** Sch. 2 para. 22 in force at 28.12.2022, see art. 1(1)

**23.** After regulation 36 (trade: information powers) insert—

#### “Trade: information offences

[<sup>F9</sup>**36ZA**].—(1) A person commits an offence if that person—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request under regulation 36 (trade: information powers);
- (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
- (c) with intent to evade any provision of regulation 36, destroys, mutilates, defaces, conceals or removes any document;
- (d) otherwise intentionally obstructs an authorised officer in the exercise of their powers under regulation 36.

(2) Where a person is convicted of an offence under this regulation, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.”

#### Textual Amendments

**F9** Word in Sch. 2 para. 23 substituted (28.12.2023) by The Haiti (Sanctions) (Overseas Territories) (Amendment) Order 2023 (S.I. 2023/1383), arts. 1(1), 10

#### Commencement Information

**I20** Sch. 2 para. 23 in force at 28.12.2022, see art. 1(1)

[<sup>F10</sup>23A. In regulation 36A(4) (general trade licences: records), for “Secretary of State” substitute “Governor”.

**Textual Amendments**

**F10** Sch. 2 paras. 23A, 23B inserted (28.12.2023) by [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), **11**

**23B.** In regulation 36B (general trade licences: inspection of records)—

- (a) in paragraph (1), for “A person authorised by the Secretary of State or the Commissioners (an “official”)” substitute “An authorised officer”;
- (b) in paragraphs (2) to (5), for “official”, in each place it occurs, substitute “authorised officer”;
- (c) in paragraph (5)(a), for “official’s functions” substitute “authorised officer’s functions”.]

**Textual Amendments**

**F10** Sch. 2 paras. 23A, 23B inserted (28.12.2023) by [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), **11**

**24.** In regulation 37 (disclosure of information)—

- (a) in paragraph (1), for “Secretary of State, the Treasury or the Commissioners” substitute “Governor or an authorised officer”;
- (b) in paragraph (2)—
  - (i) after sub-paragraph (c) insert—

“(ca) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Territory for an offence under any provisions of these Regulations;”;
  - (ii) in sub-paragraph (d)—
    - (aa) in paragraph (i), after “Regulations” insert “(as they have effect in the United Kingdom)”;
    - (bb) in paragraph (ii), after “regulation 15(1) (export of [<sup>F11</sup>small arms, light weapons and ammunition])” insert “(as it has effect in the United Kingdom)”;
  - (iii) in sub-paragraph (e), after “any British overseas territory” insert “other than the Territory”;
  - (iv) in sub-paragraph (g), for “United Kingdom” substitute “Territory”;
- (c) in paragraph (3)—
  - (i) in sub-paragraph (f), for “United Kingdom” substitute “Territory”;
  - (ii) in sub-paragraph (j), for “Secretary of State, the Treasury or the Commissioners (as the case may be) consider” substitute “Governor considers”.

**Textual Amendments**

**F11** Words in Sch. 2 para. 24(b)(ii)(bb) substituted (28.12.2023) by [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), **12**

### Commencement Information

**I21** Sch. 2 para. 24 in force at 28.12.2022, see [art. 1\(1\)](#)

**25.** For regulation 38 (finance: disclosure to the Treasury) substitute—

#### “Finance: disclosure to the Governor

**38.**—(1) A relevant public authority may disclose information to the Governor or an authorised officer if the disclosure is made for the purpose of enabling or assisting the Governor or authorised officer to discharge any of its functions in connection with any sanctions regulations<sup>(4)</sup> contained in these Regulations.

(2) In this regulation—

“relevant public authority” means—

- (a) any person holding or acting in any office under or in the service of the Crown in right of the Territory;
- (b) any regulatory body in the Territory; or
- (c) any other person exercising functions of a public nature.”

### Commencement Information

**I22** Sch. 2 para. 25 in force at 28.12.2022, see [art. 1\(1\)](#)

**26.** In regulation 39 (Part 6: supplementary)—

[<sup>F12</sup>(za) in paragraph (1) for “finance: disclosure to the Treasury” substitute “finance: disclosure to the Governor”];

(a) for paragraph (2) substitute—

“(2) But nothing in that regulation authorises a disclosure that would contravene the data protection legislation if that legislation were applicable to the Territory.”;

(b) in paragraph (5), for “Treasury licence” substitute “financial sanctions licence”;

(c) after paragraph (5) insert—

“(5A) An authorised officer must, if requested to do so, produce evidence of their authority before exercising any power conferred by this Part.”;

(d) in paragraph (6), in the definition of “privileged information”, omit “(in Scotland, to confidentiality of communications)”.

### Textual Amendments

**F12** Sch. 2 para. 26(za) inserted (28.12.2023) by [The Haiti \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2023 \(S.I. 2023/1383\)](#), arts. 1(1), **13**

### Commencement Information

**I23** Sch. 2 para. 26 in force at 28.12.2022, see [art. 1\(1\)](#)

**27.** In Part 7 (Enforcement), at the beginning insert—

(4) “Sanctions regulations” has the meaning given in section 1(5) of the Sanctions and Anti-Money Laundering Act 2018.

### “Suspected ships, aircraft or vehicles

**39A.**—(1) Where an authorised officer has reasonable cause to suspect that a ship, aircraft or vehicle has been, or is being, or is about to be, used in the commission of an offence under Part 4 (Trade), the authorised officer may—

- (a) in relation to an aircraft or vehicle, require the relevant person to keep the aircraft or vehicle and any goods it is carrying in the Territory, until the authorised officer notifies the relevant person that the aircraft or vehicle (as the case may be) may depart, or
- (b) in relation to a ship, require the relevant person—
  - (i) not to cause or permit the ship to proceed with the voyage on which it is engaged or about to engage, until the authorised officer notifies the relevant person that the ship may proceed;
  - (ii) not to land any part of the ship’s cargo at any port specified by the authorised officer, except with the authorised officer’s prior consent;
  - (iii) if the ship is in port in the Territory, to cause the ship to remain there until the authorised officer notifies the relevant person that the ship may depart;
  - (iv) if the ship is in any other place, to cause it to proceed to a port specified by the authorised officer and keep it there, until the authorised officer notifies the relevant person that the ship may depart.

(2) Where the authorised officer considers it necessary in order to secure compliance with a requirement made under paragraph (1), the authorised officer may detain the ship, aircraft or vehicle and any goods it is carrying.

(3) Where an authorised officer detains a ship, aircraft or vehicle and any goods it is carrying in accordance with paragraph (2), the authorised officer must deliver to the master of the ship, the aircraft operator or the owner of the vehicle (as the case may be) a detention direction.

(4) A detention direction under paragraph (3) must—

- (a) be in writing,
- (b) state the grounds on which the ship, aircraft or vehicle is detained, and
- (c) state that—
  - (i) the power to detain is exercised under this regulation, and
  - (ii) any requirements subject to which the detention is carried out must be complied with.

(5) Paragraph (6) applies, in relation to a ship or aircraft, if—

- (a) the ship or aircraft (as the case may be) is not a Territory ship or Territory aircraft, and
- (b) there is in the Territory a consular officer for the country to which the ship or aircraft belongs.

(6) A copy of the detention direction must be sent as soon as practicable to the nearest consular officer for the country to which the ship or aircraft belongs.

(7) An authorised officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

(8) An authorised officer must, if requested to do so, produce evidence of their authority before exercising any power conferred by this regulation.

**Changes to legislation:** There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2. (See end of Document for details)

(9) Nothing in this regulation affects any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

(10) In this regulation—

“consular officer”, in relation to a foreign country, means the officer recognised by His Majesty as a consular officer of that foreign country in the Territory;

“the relevant person” means any of the following—

- (a) in relation to a ship, the owner, master or charterer of the ship;
- (b) in relation to an aircraft, the owner, charterer, operator or commander of the aircraft;
- (c) in relation to a vehicle, the owner, driver or operator of the vehicle.

### Search warrants

**39B.**—(1) A magistrate or justice of the peace may issue a search warrant if satisfied by information on oath that—

- (a) there is reasonable cause to suspect that a relevant offence under these Regulations has been, or is being, or is about to be, committed, and
- (b) evidence in relation to the offence is to be found on a ship, aircraft, vehicle or premises specified in the information.

(2) A search warrant issued under this regulation is a warrant empowering an authorised officer to enter and search the ship, aircraft, vehicle or premises specified in the information, at any time within one month from the date of the warrant.

(3) The powers conferred on an authorised officer by a search warrant under this regulation include powers to—

- (a) in the case of a power to enter a ship, aircraft or vehicle, stop that ship, aircraft or vehicle;
- (b) enter any land, where such entry appears to the authorised officer to be necessary in order to enter the ship, aircraft, vehicle or premises specified in the information;
- (c) take such other persons and such equipment on to the ship, aircraft, vehicle or premises as appear to the authorised officer to be necessary;
- (d) inspect and seize any thing found in the course of a search if the authorised officer has reasonable cause to suspect that—
  - (i) it is evidence in relation to a relevant offence under these Regulations, or
  - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed;
- (e) take copies of any document.

(4) An authorised officer who enters a ship, aircraft, vehicle or premises under a search warrant issued under this regulation may—

- (a) search any person found on the ship, aircraft, vehicle or premises whom the officer has reasonable cause to suspect to be in possession of any thing which may be required as evidence for the purposes of proceedings in respect of a relevant offence under these Regulations, and
- (b) seize any such thing found in such a search.

(5) Any thing seized under paragraphs (3)(d) or (4)(b)—

- (a) may be retained for so long as is necessary in all the circumstances, and



[<sup>F13</sup>(b) where that thing is small arms, light weapons or ammunition and is not authorised by a trade licence, may be forfeited, disposed of or transferred as appropriate.]

(6) A search of a person under paragraph (4)(a) must be carried out by a person of the same sex.

(7) An authorised officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

(8) An authorised officer must, if requested to do so, produce evidence of their authority before exercising any power conferred by this regulation.

(9) Nothing in this regulation affects any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

(10) For the purposes of this regulation—

“information on oath” includes any other form of application for a search warrant applicable in the Territory;

“justice of the peace” includes other competent judicial authorities within the Territory responsible for issuing search warrants;

“relevant offence” means an offence which is punishable with a term of imprisonment of more than 6 months.”

#### Textual Amendments

**F13** Words in Sch. 2 para. 27 substituted (28.12.2023) by The Haiti (Sanctions) (Overseas Territories) (Amendment) Order 2023 (S.I. 2023/1383), arts. 1(1), 14

#### Commencement Information

**I24** Sch. 2 para. 27 in force at 28.12.2022, see art. 1(1)

**28.** For regulation 40 (penalties for offences) substitute—

“**40.**—(1) Paragraphs (3) to (6) apply to—

- (a) Anguilla;
- (b) British Antarctic Territory;
- (c) British Indian Ocean Territory;
- (d) Cayman Islands;
- (e) Montserrat;
- (f) Pitcairn, Henderson, Ducie and Oeno Islands;
- (g) Turks and Caicos Islands;
- (h) Virgin Islands.

(2) Paragraphs (7) to (10) apply to—

- (a) Falkland Islands;
- (b) St Helena, Ascension and Tristan da Cunha;
- (c) South Georgia and the South Sandwich Islands;
- (d) the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus.

(3) A person who commits an offence under any provision of Part 3 (Finance) or regulation 30 (finance: licensing offences) is liable—

**Changes to legislation:** There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2. (See end of Document for details)

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years, or a fine, or both.
- (4) A person who commits an offence under any provision of Part 4 (Trade) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or a fine, or both.
- [<sup>F14</sup>(4B) A person who commits an offence under regulation 30A, 36A(6) or 36B(5) (offences in connection with trade licences) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.]
- (5) A person who commits an offence under regulation 31(6) or 35 (information offences in connection with Part 3) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both.
- (6) A person who commits an offence under regulation [<sup>F15</sup>36ZA] (trade: information offences) is liable, on summary conviction, to a fine not exceeding £1,000 or its equivalent in the currency of the Territory.
- (7) A person who commits an offence under any provision of Part 3 (Finance) or regulation 30 (finance: licensing offences) is liable on conviction to imprisonment for a term not exceeding 7 years, or a fine, or both.
- (8) A person who commits an offence under any provision of Part 4 (Trade) is liable on conviction, to imprisonment for a term not exceeding 10 years, or a fine, or both.
- [<sup>F16</sup>(8B) A person who commits an offence under regulation 30A, 36A(6) or 36B(5) (offences in connection with trade licences) is liable on conviction to imprisonment for a term not exceeding 2 years, or a fine, or both.]
- (9) A person who commits an offence under regulation 31(6) or 35 (information offences in connection with Part 3) is liable on conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both.
- (10) A person who commits an offence under regulation [<sup>F17</sup>36ZA] (trade: information offences) is liable on conviction to a fine not exceeding £1,000 or its equivalent in the currency of the Territory.
- (11) Where a fine in this regulation is expressed to be a sum in sterling or its equivalent in the currency of the Territory, the Governor may issue guidance specifying how to calculate the amount in the currency of the Territory which is to be considered equivalent to that sum in sterling.”

### Textual Amendments

- F14** Words in Sch. 2 para. 28 inserted (28.12.2023) by The Haiti (Sanctions) (Overseas Territories) (Amendment) Order 2023 (S.I. 2023/1383), arts. 1(1), **15(a)**
- F15** Word in Sch. 2 para. 28 substituted (28.12.2023) by The Haiti (Sanctions) (Overseas Territories) (Amendment) Order 2023 (S.I. 2023/1383), arts. 1(1), **15(b)**
- F16** Words in Sch. 2 para. 28 inserted (28.12.2023) by The Haiti (Sanctions) (Overseas Territories) (Amendment) Order 2023 (S.I. 2023/1383), arts. 1(1), **15(c)**
- F17** Word in Sch. 2 para. 28 substituted (28.12.2023) by The Haiti (Sanctions) (Overseas Territories) (Amendment) Order 2023 (S.I. 2023/1383), arts. 1(1), **15(d)**

### Commencement Information

- I25** Sch. 2 para. 28 in force at 28.12.2022, see **art. 1(1)**

**29.** In regulation 41 (liability of officers of bodies corporate etc.), omit paragraph (4).

### Commencement Information

- I26** Sch. 2 para. 29 in force at 28.12.2022, see **art. 1(1)**

**30.** In regulation 42 (jurisdiction to try offences)—

(a) in paragraph (1), for “United Kingdom”, in each place it occurs, substitute “Territory”;

(b) omit paragraphs (2) and (3).

### Commencement Information

- I27** Sch. 2 para. 30 in force at 28.12.2022, see **art. 1(1)**

**31.** After regulation 42 (jurisdiction to try offences), insert—

#### “Consent to prosecutions

**42A.**—(1) Proceedings for an offence under these Regulations must not be instituted in the Territory except with the consent of the principal public officer of the Territory responsible for criminal prosecutions.

(2) Nothing in paragraph (1) prevents—

- (a) the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of an offence under these Regulations, or
- (b) the remand in custody or on bail of any person charged with such an offence.”

### Commencement Information

- I28** Sch. 2 para. 31 in force at 28.12.2022, see **art. 1(1)**

**32.** For regulation 43 (procedure for offences by unincorporated bodies) substitute—

“**43.** Any provision in an enactment which applies in the Territory in relation to criminal proceedings brought against a body corporate, applies also for the purposes of proceedings in the Territory for an offence under these Regulations brought against an unincorporated body.”

**Changes to legislation:** There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2. (See end of Document for details)

**Commencement Information**

**I29** Sch. 2 para. 32 in force at 28.12.2022, see [art. 1\(1\)](#)

**33.** In regulation 44 (time limit for proceedings for summary offences), omit paragraph (4).

**Commencement Information**

**I30** Sch. 2 para. 33 in force at 28.12.2022, see [art. 1\(1\)](#)

**34.** Omit regulation 45 (trade enforcement: application of CEMA) (including the heading).

**Commencement Information**

**I31** Sch. 2 para. 34 in force at 28.12.2022, see [art. 1\(1\)](#)

**35.** Omit regulation 46 (trade offences in CEMA: modification of penalty) (including the heading).

**Commencement Information**

**I32** Sch. 2 para. 35 in force at 28.12.2022, see [art. 1\(1\)](#)

**36.** Omit regulation 47 (application of Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005(5)) (including the heading).

**Commencement Information**

**I33** Sch. 2 para. 36 in force at 28.12.2022, see [art. 1\(1\)](#)

**37.** Omit regulation 48 (monetary penalties) (including the heading).

**Commencement Information**

**I34** Sch. 2 para. 37 in force at 28.12.2022, see [art. 1\(1\)](#)

**38.** In regulation 49 (exercise of maritime enforcement powers)—

(a) for paragraph (1) substitute—

“(1) A maritime enforcement officer may, for a purpose mentioned in paragraph (2) or (3), exercise any of the maritime enforcement powers in relation to a relevant ship in international waters.”;

(b) omit paragraph (5);

(c) at the end insert—

(5) [2005 c. 15](#). Chapter 1 of Part 2 has been amended by the Terrorism Act [2006 \(c. 11\)](#), section 33(2) to (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; [S.I. 2006/1629](#); and [S.I. 2014/834](#).

“(6) In this Part, “a relevant ship” means, in relation to the Territory, a Territory ship.”

**Commencement Information**

**I35** Sch. 2 para. 38 in force at 28.12.2022, see [art. 1\(1\)](#)

**39.** In regulation 50 (maritime enforcement officers)—

(a) In paragraph (1)—

(i) omit sub-paragraphs (b), (d), (e), (f) and (h);

(ii) for sub-paragraph (c) substitute—

“(c) a police officer of the Territory;”;

(iii) for sub-paragraph (g) substitute—

“(g) a customs officer of the Territory;”;

(b) Omit paragraph (2).

**Commencement Information**

**I36** Sch. 2 para. 39 in force at 28.12.2022, see [art. 1\(1\)](#)

**40.** In regulation 51(2)(c) (power to stop, board, search etc.), for “United Kingdom” substitute “Territory”.

**Commencement Information**

**I37** Sch. 2 para. 40 in force at 28.12.2022, see [art. 1\(1\)](#)

**41.** Omit regulation 53 (restrictions on exercise of maritime enforcement powers) (including the heading).

**Commencement Information**

**I38** Sch. 2 para. 41 in force at 28.12.2022, see [art. 1\(1\)](#)

**42.** In regulation 55 (notices), for “United Kingdom”, in each place it occurs, substitute “Territory”.

**Commencement Information**

**I39** Sch. 2 para. 42 in force at 28.12.2022, see [art. 1\(1\)](#)

**43.** Omit regulation 56 (trade: overlapping offences) (including the heading).

**Commencement Information**

**I40** Sch. 2 para. 43 in force at 28.12.2022, see [art. 1\(1\)](#)

**44.** In Schedule 2 (Treasury licences: purposes)—

(a) in the heading, for “Treasury licences” substitute “Financial sanctions licences”;

**Changes to legislation:** There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2. (See end of Document for details)

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

---

**Commencement Information**

**I41** Sch. 2 para. 44 in force at 28.12.2022, see [art. 1\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Haiti (Sanctions) (Overseas Territories) Order 2022, SCHEDULE 2.