

EXPLANATORY MEMORANDUM TO
THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 6) REGULATIONS
2022

2022 No. 241

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 Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) ('the 2019 Regulations'). These amendments will introduce new aircraft and trade sanctions measures, for the purposes set out in regulation 4 of the 2019 Regulations. This instrument will also amend the 2019 Regulations to correct several omissions and an error in the shipping measures introduced by the Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022 (S.I. 2022/203).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument, which is subject to the made affirmative procedure, is laid before Parliament on 8 March 2022 under section 55(3) of the Sanctions Act and comes into force on the same day that it is laid. Bringing the instrument into force on the same day is necessary given the international situation and it is appropriate for these measures to enter into force as soon as possible.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the same as the territorial extent of the instrument which it amends: that is, the whole of the United Kingdom ('UK').
- 4.2 Subject to paragraph 4.3, 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 UK.
- 4.3 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.

5. European Convention on Human Rights

- 5.1 The Minister of State at the Foreign, Commonwealth and Development Office, Lord Ahmad of Wimbledon, has made the following statement regarding human rights:
"In my view the provisions of the Russia (Sanctions) (EU Exit) (Amendment) (No. 6) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

- 6.1 The Sanctions Act establishes a legal framework which enables Her Majesty's Government to impose sanctions for a number of purposes, which include that it is in the interests of international peace and security and furthering a foreign policy objective of the government of the UK.
- 6.2 This instrument makes amendments to the 2019 Regulations, which were made under the Sanctions Act for discretionary purposes within section 1(2) of the Sanctions Act.

7. Policy background

What is being done and why?

- 7.1 This instrument amends the 2019 Regulations to impose and amend prohibitions and requirements in relation to aviation, shipping and trade sanctions measures.
- 7.2 Following its illegal annexation of Crimea in 2014 Russia has continued to pursue a pattern of aggressive action towards Ukraine. This has included use of military force to invade Ukraine, announced by President Putin on 24 February 2022 as a "special military operation", and the recognition of the 'Donetsk People's Republic' and 'Luhansk People's Republic' as independent states, and the deployment of Russian military to those regions.
- 7.3 The UK has called on Russia to cease its military activity, withdraw its forces from Ukraine and Crimea and fulfil its international commitments including under the 1975 Helsinki Final Act, the 2014 and 2015 Minsk Protocols and the 1994 Budapest memorandum. The UK continues to reiterate its support for Ukraine and has called on Russia to withdraw its troops, end its support for the separatists, and enable the restoration of security along the Ukraine-Russia border under effective and credible international monitoring.
- 7.4 UK policy is focused on ending the crisis in Ukraine and on assisting Ukraine to secure its borders against Russia's aggressive actions, ensuring a stable, prosperous and democratic future for all its citizens. The UK has been unwavering in its support for the country's territorial integrity and sovereignty.
- 7.5 These sanctions are part of a broader policy of measures which includes: diplomatic pressure; other trade sanctions; economic and financial sanctions and designations. Change will therefore be sought through diplomatic pressure, and other measures, supported by implementing sanctions in respect of actions undermining the territorial integrity, sovereignty and independence of Ukraine.

Aircraft measures

- 7.6 This instrument amends regulation 3 (application of prohibitions and requirements outside the United Kingdom) to include reference to directions given for the purpose of regulation 57J(3); amends regulation 5(1) (power to designate persons) to insert a new provision for aircrafts; and inserts a new Part 6A (Aircraft). The Regulations also amend regulation 80 (penalties for offences).
- 7.7 New Part 6A relating to aircraft, which is added to the 2019 Regulations by this instrument, contains several measures including:
- termination of existing registration, and refusal of application for registration, of aircraft owned by designated persons within the UK,

- banning Russian aircraft (owned, operated or chartered by a designated person or a person connected with Russia, as well as aircraft registered in Russia) from overflying or landing in the UK,
 - giving the Secretary of State power to direct an airport operator to detain Russian aircraft.
- 7.8 To prevent obfuscation and target the ultimate beneficiary owners, who may hide behind shell companies or similar, these measures may be taken against those who:
- possess the legal title to the aircraft, or to any share in the aircraft, or
 - have a beneficial interest in the aircraft or in any share in the aircraft.
- 7.9 This instrument provides for an exception to the prohibition on landing and overflight where failing to land would endanger the lives of persons on board or the safety of the aircraft, and overflight is preparatory to that landing. The instrument also provides for the creation of criminal offences. The Regulations make it a criminal offence to contravene any of the prohibitions in these Regulations and amend regulation 80 (penalties for offences) accordingly.

Trade measures

- 7.10 This instrument also amends Part 5 (Trade) of the 2019 Regulations, which contains trade sanctions measures and makes related consequential amendments. This instrument contains further measures prohibiting:
- This instrument applies existing measures on ‘Restricted Goods’ and ‘Restricted Technology’ to aviation and space items. This prohibits the export, supply and delivery, making available and transfer of aviation and space items to, or for use in, Russia (as well as the provision of related technical assistance, financial services, funds and brokering services); and
 - This instrument also applies a further prohibition to aviation and space items, covering the provision of insurance and reinsurance services relating to aviation and space goods and technology, to a person connected with Russia, or for use in Russia.
- 7.11 This instrument also makes amendments to the 2019 Regulations to provide for exceptions from these measures, licensing and enforcement, including the creation of criminal offences.

Shipping measures

- 7.12 This instrument also amends the 2019 Regulations to correct several omissions and an error in the shipping measures introduced by the Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2022 (S.I. 2022/203).

Statutory Reports

- 7.13 This instrument is accompanied by two statutory reports that are required to be published under the Sanctions Act in relation to the 2019 Regulations.
- 7.14 First, and in accordance with section 46(2) of the Sanctions Act, the report explains why the Minister considers that the carrying out of the stated purposes of the regulations being amended would meet one or more of the discretionary purposes (i.e. purposes other than implementing UN obligations) set out in the Sanctions Act; why there are good reasons to pursue those purposes; and why the Minister considers that

the imposition of sanctions is a reasonable course of action for pursuing those purposes.

- 7.15 Second, and in accordance with section 18 of the Sanctions Act, a report has been produced that identifies the offences contained in this instrument and the prohibitions and requirements to which they relate; explains why there are good reasons for those prohibitions and requirements to be enforceable by criminal proceedings; and explains why there are good reasons for the prescribed penalties in relation to those offences. Offences include, for example, contravening the principal prohibitions in the Regulations (e.g. breaching one of the aircraft sanctions prohibitions) or trying to circumvent those principal prohibitions

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument itself does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act. The 2019 Regulations related to the withdrawal of the UK from the EU because they replaced, with substantially the same effect, the previous EU Russia and Ukraine-related sanctions regimes.

9. Consolidation

- 9.1 The 2019 Regulations have been amended by S.I. 2020/590; S.I. 2020/951; S.I. 2022/123; S.I. 2022/194; S.I. 2022/195; S.I. 2022/203; S.I. 2022/205 and by the Sentencing Act 2020 (c. 17). This instrument does not consolidate previous instruments. 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 2019 Regulations explains the [consultation](#) that has been carried out in relation to the Sanctions Act.
- 10.2 There is neither a requirement in the Sanctions Act for public consultation on instruments made under the Act, nor is there any other legal obligation to consult in respect of this instrument. HMG will continue engagement with stakeholders on the implementation of UK sanctions.

11. Guidance

- 11.1 In accordance with section 43 of the Sanctions Act, guidance has been published in relation to the prohibitions and requirements under the 2019 Regulations. This guidance will be updated to reflect the amendments to those Regulations made by this instrument.

12. Impact

- 12.1 The FCDO has completed a De Minimis self-certification as the costs to UK businesses of the Amendment Regulations are expected to sit under the threshold of £5m per annum.
- 12.2 The FCDO, Department for Transport (DfT) and HM Treasury (HMT) assess that the direct impacts and costs to business resulting from these sanctions can be summarised as:

- (i) reduced revenues for the UK's Civil Aviation Authority caused by the deregistration of Russian-owned aircraft; and
 - (ii) reduced revenue for UK airports and aviation authorities caused by losses in landing and overflying fees and reductions in ancillary services as a result of the banning of Russian aircraft from overflying and landing in the UK.
 - (iii) Reduced revenues for the entities who are trading with Russian entities and can no longer receive insurance pay-outs because of the combined effect of EU and UK sanctions as well as Russia's sanctions. However, these losses are wholly offset by the benefits from aligning EU and UK measures which minimises disruption in the re/insurance market and protects UK insurers which are reinsured by EU firms.
- 12.3 Following internal analysis the FCDO, DfT and HMT assess the cost to UK businesses would be less than £5m per year, with the maximal quantifiable estimate of aircraft sanctions being £1.5m. However, due to offsetting impacts such as benefits to UK businesses attained by counteracting misalignment with the EU in the insurance and reinsurance sector, it is probable that direct impact on UK business will be significantly less than £1.5m.
- 12.4 UK businesses must already comply with sanctions against individuals and entities appearing on a regularly updated gov.uk list. The process for notifying businesses about sanctions and designated persons remains unchanged, so we do not expect significant changes to IT systems or administrative changes.
- 12.5 For the reasons stated in paragraph 12.1, an impact assessment has not been conducted for this instrument. An impact assessment was produced for the primary legislation and can be found [here](#).

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 The FCDO does not believe it is possible to exempt smaller businesses from the requirements to comply with the measures introduced by 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 2019 Regulations which are amended by this instrument. Standalone reviews of this instrument are not required. However, reviews of the 2019 Regulations which take place after this instrument enters into force will include a review of the measures introduced by this instrument. As such, the Minister does not consider that a review clause in this instrument is appropriate.

15. Contact

- 15.1 The Sanctions Legislation and Policy Team at the Foreign, Commonwealth and Development Office, 0207 008 8553 or email: Sanctions.SIs@fcdo.gov.uk, can be contacted with any queries regarding the instrument.

- 15.2 Daniel Drake, Deputy Director for the Sanctions Taskforce at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Ahmad of Wimbledon, Minister of State for Foreign, Commonwealth and Development Affairs can confirm that this Explanatory Memorandum meets the required standard.