

EXPLANATORY MEMORANDUM TO
THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 11) REGULATIONS
2022

2022 No. 792

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'). It revokes and replaces the Russia (Sanctions) (EU Exit) (Amendment) (No. 10) Regulations 2022 (S.I. 2022/689), which introduced new trade sanctions measures for the purposes set out in the regulation 4 of the 2019 regulations. This instrument corrects a small number of errors in S.I. 2022/689, but otherwise makes the same provisions as that instrument.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is laid to rectify errors made in the Russia (Sanctions) (EU Exit) (Amendment) (No. 10) Regulations, which was laid in Parliament on 22 June 2022. The errors mainly related to prohibitions which were not within the powers set out in the Sanctions Act. Prohibitions were imposed in relation to maritime technology and relevant restricted technology which were not within the powers in the Sanctions Act. A further prohibition was imposed in relation to interception and monitoring services which was also not within the powers in the Sanctions Act. It also makes a small number of other corrections, including in relation to cross referencing and some definitions.
- 3.2 There are no amendments to the policy in relation to Russian sanctions and the substance of this instrument is the same as S.I. 2022/689, save for these corrections. This instrument revokes S.I. 2022/689 and is being issued free of charge to all known recipients of S.I. 2022/689.
- 3.3 This instrument, which is subject to the made affirmative procedure, is laid before Parliament on 14 July 2022 under section 55(3) of the Sanctions Act and comes into force on 15 July 2022. In this case also, the provision made by this instrument largely maintains existing measures, so there are only very limited different effects.

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. 11) 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 furthers a foreign policy objective of the government of the UK.

6.2 This instrument revokes and replaces S.I. 2022/689.

6.3 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 prohibitions and requirements in relation to trade sanctions measures.

7.2 Following its illegal annexation of Crimea in 2014, Russia continued a pattern of aggressive action towards Ukraine until 24 February 2022 when it invaded Ukraine’s sovereign territory, announced by President Putin as a “special military operation”, and recognised the ‘Donetsk People’s Republic’ and ‘Luhansk People’s Republic’ as independent states and deployed 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, end its support for the separatists, and fulfil its international commitments including under the 1975 Helsinki Final Act, the 2014 and 2015 Minsk Protocols and the 1994 Budapest memorandum. UK policy remains focussed 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.

7.4 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.

7.5 This instrument amends Part 5 (Trade) of the 2019 Regulations, which contains trade sanctions measures, and makes related consequential amendments. This instrument provides for a number of trade restrictions, these include:

- prohibitions on the export, supply and delivery, making available and transfer of goods, and prohibitions on the making available and transfer of technology with potential use for internal repression (as well as related technical assistance, financial services, funds and brokering services). The prohibitions will relate to Russia, and the non-government controlled Ukraine territories. Many goods with potential for misuse are already export-controlled, and licences would not be granted if there were a clear risk the equipment might be used for internal repression. However, this measure will seek to catch any further equipment not currently subject to export control which could be used for such purposes. It restricts further items that may be used in Russia, such as microorganisms and toxins, and materials processing equipment.
- prohibitions on the export, supply and delivery, making available and transfer of goods, and making available and transfer of technology with the potential for the production and development of chemical and biological weapons (as well as related technical assistance, financial services, funds, and brokering services). The prohibitions will relate to Russia, and the non-government-controlled Ukraine territories.
- the measure on chemical and biological goods and technology will expand on existing sanctions prohibitions on the export, supply and delivery, making available or acquiring of military goods and the transfer, making available or acquiring of technology, dual-use goods and technology, and critical industry goods and technology.
- prohibitions on the export, supply or delivery, making available of maritime goods and the making available and transfer of technology. This measure is designed to further impact Russian military objectives, hinder their shipbuilding capabilities and their ability to maintain and repair existing vessels. The prohibitions on maritime good and technology will expand transport-related measures, mirroring the EU's ban, introduced on 9 March 2022. New regulations will prohibit the export of goods captured in chapter 4 (Navigation Equipment) and chapter 5 (Radio-Communication Equipment) of Annex 1 of the Merchant Shipping Notice 1874.1
- prohibitions on the export to, or for use in, Russia, of Sterling or EU denominated banknotes; as well as prohibitions on the making available, supply, or delivery of such banknotes to a person connected with Russia; and on the making available of such banknotes for use in Russia.
- prohibitions on the export to, or for use in Russia of jet fuel and fuel additives, as well as prohibitions on the making available, export, and supply, directly or indirectly, of such products to Russia or for use in Russia (as well as related technical assistance, financial services, funds, and brokering services).
- a measure adding further products to existing prohibitions relating to oil refining goods, and technology. This will have the effect of targeting items to

¹ <https://www.gov.uk/government/publications/msn-1874mf-amendment-5-marine-directive-other-approval-and-standards>

undermine Russia's ability to refine oil to the standard required for it to be imported into the EU and UK, thus inhibiting exports in one the most profitable sectors of Russia's economy.

- prohibitions on the import, acquisition or supply and delivery of revenue generating goods that originate in or are consigned from Russia (as well as related technical assistance, financial services, funds, and brokering services. The aim of this measure is to further prevent the Russian state from generating revenue to finance military action in Ukraine.
- prohibitions on the provision of technical assistance, and financial services, funds, and brokering services relating to iron and steel imports.

8. European Union Withdrawal and Future Relationship

8.1 This instrument itself does not relate to withdrawal from the European Union ('EU') / 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; S.I. 2022/241; S.I. 2022/395; S.I. 2022/452; S.I. 2022/477 and by the Sentencing Act 2020 (c. 17). They were also amended by S.I. 2022/689, which is revoked and replaced by this instrument. 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 consultation² 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. HM Government 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.

11.2 Commodity codes for the newly sanctioned goods have been provided to help exporters identify the types of goods that are now prohibited for export. Exporters

² <https://www.gov.uk/government/consultations/public-consultation-on-the-united-kingdoms-future-legal-framework-for-imposing-and-implementing-sanctions>

can use the UK Integrated Online Tariff tool³ to look up commodity codes, import duties, taxes and controls.

12. Impact

- 12.1 The Department for International Trade assesses that the direct impacts and costs to business resulting from these sanctions can be summarised as:
- The Net Present Social Value of the overall set of proposed measures is estimated as a negative of around £151.4m over the appraisal period (2022 – 2030).⁴ Net Present Social Value is the Present Social Value of Benefits minus the Present Social Value Costs, and so demonstrates the overall current monetary value of a policy option.
 - The Equivalent Annual Net Direct Cost to Business (EANDCB) - which focuses on the direct impacts on business – for the proposed set of measures is estimated at a cost of £19.2m.⁵
- 12.2 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 remains unchanged, so we do not expect significant changes to IT systems or administrative changes.
- 12.3 A full Impact Assessment for The Russia (Sanctions) (EU Exit) (Amendment) (No. 11) Regulations 2022, is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website. The effect of the Amendment Regulations is to amend Part 5 (Trade) of the 2019 Regulations which contains trade sanctions measures.
- 12.4 An impact assessment was produced for the primary legislation and can be found here: <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/sanctions-and-anti-money-laundering-IA.pdf>

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 If determined that it was no longer appropriate to maintain a sanctions regime or specific sanctions measures, that regime would be removed or amended accordingly. In the case of the 2019 Regulations, that would include the measures introduced by this instrument. As such, the Minister does not consider that a review clause in this instrument is appropriate.

³ For more information on the UK Integrated Online Tariff tool, see: https://www.trade-tariff.service.gov.uk/find_commodity

⁴ In 2019 prices. The Net Present Social Value of a policy is the Present Value of Benefits minus the Present Value Costs, and so demonstrates the overall current monetary value of a policy option.

⁵ In 2019 prices.

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 Abigail Culank, Deputy Director 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 at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.