

EXPLANATORY MEMORANDUM TO
THE SANCTIONS (EU EXIT) (MISCELLANEOUS AMENDMENTS) (NO. 2)
REGULATIONS 2022

2022 No. 818

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 The instrument makes certain corrections to sanctions regimes currently in effect in UK law and also introduces new provisions as follows. The instrument amends and corrects certain technical provisions relating to trade sanctions. It also introduces financial sanctions measures insofar as it amends certain provisions relating to licences.
- 2.2 This instrument is made under the Sanctions and Anti-Money Laundering Act 2018 (“the Sanctions Act”) to make amendments and corrections to:
 - (a) the Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019 (S.I. 2019/134);
 - (b) the Venezuela (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/135);
 - (c) the Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/554);
 - (d) the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/600);
 - (e) the Zimbabwe (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/604);
 - (f) the Chemical Weapons (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/618);
 - (g) the Syria (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/792);
 - (h) the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855);
 - (i) the Burundi (Sanctions) (EU Exit) Regulations 2021 (S.I. 2021/1404);
 - (j) the Guinea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/1145);
 - (k) the Cyber (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/597);
 - (l) the Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/608);
 - (m) the Nicaragua (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/610);
 - (n) the Global Human Rights (Sanctions) Regulations 2020 (S.I. 2020/680);
 - (o) the Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/1474);
 - (p) the Global Anti-Corruption Sanctions Regulations 2021 (S.I. 2021/488); and
 - (q) the Myanmar (Sanctions) Regulations 2021 (S.I. 2021/496),(together “the Amended Regulations”).

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 19 July 2022 under section 55(3) of the Sanctions Act and comes into force on 9 August, except as specified in paragraph 3.2 below.
- 3.2 The following provisions come into force on 30 August 2022 in order to give new “relevant firms” time to understand the changes to the legislation and adapt their systems and practices to implement the new requirements:
- (a) regulation 2(2);
 - (b) regulation 3(2);
 - (c) regulation 4(2);
 - (d) regulation 5(2);
 - (e) regulation 6(2);
 - (f) regulation 7(2);
 - (g) regulation 8(2);
 - (h) regulation 9(2);
 - (i) regulation 10(2);
 - (j) regulation 11(2);
 - (k) regulation 12(2);
 - (l) regulation 13(2);
 - (m) regulation 14(2);
 - (n) regulation 15(2);
 - (o) regulation 16(2);
 - (p) regulation 17(2); and
 - (q) regulation 18(2).

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the same as the territorial extent of the Amended Regulations, 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 Amended Regulations, 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. “UK person” is defined in section 21(2) of the Sanctions Act.

5. European Convention on Human Rights

- 5.1 The Parliamentary Under-Secretary of State at the Foreign, Commonwealth and Development Office, Rehman Chishti, MP has made the following statement regarding human rights:
- “In my view the provisions of the Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) 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 the interests of international peace and security and the furtherance of a foreign policy objective of the government of the UK.
- 6.2 This instrument makes amendments to the Amended 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 a number of financial sanctions provisions in the Amended Regulations.
- 7.2 This instrument inserts a new information sharing power in each of the Amended Regulations to authorise other Government departments, agencies and relevant bodies to share information to enable or assist the Treasury to discharge its functions in connection with financial sanctions. These functions include issuing licences and investigating breaches of financial sanctions. The sharing of such information aids effective implementation and enforcement of UK financial sanctions.
- 7.3 This instrument widens the definition of a "relevant firm" to include "crypto-asset exchange providers" and "custodian wallet providers" in each of the Amended Regulations. These terms are defined in the instrument. Under the Amended Regulations, a "relevant firm" is required to report as soon as practicable to the Treasury: (i) if it knows or has reasonable cause to suspect that a person is a designated person or has committed an offence under those regulations (and the information on which this is based came to it in the course of carrying on its business), and (ii) if the designated person is a customer of the relevant firm, the nature and amount or quantity of any frozen assets it holds for the customer at the time it first had the knowledge or suspicion.
- 7.4 Cryptoasset exchange providers and custodian wallet providers have been brought into the scope of these reporting obligations to further support the UK's implementation of Recommendation 15 of the Financial Action Task Force (FATF) standards, FATF being the international standard setting body for anti-money laundering, counter-terrorist financing and counter proliferation financing. In particular, this is achieved by extending these reporting requirements to those included within the FATF definition of "virtual asset service provider". Through these changes, the instrument seeks to address the risk of cryptocurrency being used to breach or circumvent financial sanctions. The instrument uses existing definitions of "cryptoasset exchange providers" and "custodian wallet providers" from paragraph 1(12) of Schedule 9 to the Proceeds of Crime Act 2002. These definitions are intended to cover firms that either record holdings of or enable the transfers of cryptocurrencies, and are therefore most likely to hold information relevant to the Treasury's financial sanctions functions.
- 7.5 The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, the Venezuela (Sanctions) (EU Exit) Regulations 2019, the Syria (Sanctions) (EU Exit) Regulations 2019 and the Myanmar (Sanctions) Regulations 2021 all contain prohibitions regarding the export, supply and delivery, as well as the making available, of

“interception and monitoring goods”, and the transfer of “interception and monitoring technology”. The term “interception monitoring goods and technology” is defined by reference to a Schedule in each of the above-cited regulations. The relevant Schedule contains a technical list of the items subject to the prohibitions, as well as the corollary acronyms and abbreviations used to refer to those items in the Regulations themselves. A list of acronyms and abbreviations has been included to provide additional clarity and certainty to businesses and individuals as to the scope of the prohibition.

7.6 Regulations 2(5), 3(5), 8(5) and 18(5) of this instrument make amendments to the:

- (a) Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019,
- (b) the Venezuela (Sanctions) (EU Exit) Regulations 2019,
- (c) the Syria (Sanctions) (EU Exit) Regulations 2019 and
- (d) the Myanmar (Sanctions) Regulations 2021 respectively,

to correct the definition of ‘GPRS’ (“General Packet Radio Service” instead of “General Package Radio Service”) and to insert definitions of ‘WCDMA’ (“Wideband Code Division Multiple Access”) and ‘IDEN’ (“Integrated Digital Enhanced Network”) in each of the above-cited regulations. Similarly, regulation 5(5) of this instrument makes an amendment to the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 to correct the definition of ‘WCDMA’.

7.7 Regulation 15(5) of this instrument makes a correction to a cross-reference in Regulation 34(4) of the Global Human Rights Sanctions Regulations 2020 in respect of jurisdiction to try offences.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

9.1 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 Memoranda to the Amended Regulations explain 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 Sanctions Act, nor is there any other legal obligation to consult in respect of this instrument. Her Majesty’s 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 Amended Regulations. This

guidance will be updated to reflect the amendments to those Regulations made by this instrument.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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 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 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 Amended Regulations, that would include amendment and corrections 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 Abigail Culank, Deputy Director Sanctions Directorate at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rehman Chishti MP, Parliamentary Under-Secretary of State at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.