

EXPLANATORY MEMORANDUM TO

THE SANCTIONS (MISCELLANEOUS AMENDMENTS) REGULATIONS 2022

2022 No. 819

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 and corrections to the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/411), the Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/433), the South Sudan (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/438), the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (S.I. 2019/461), the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/466), the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/573), the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/577), the Central African Republic (Sanctions) (EU Exit) Regulations (S.I. 2020/616), the Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020 (S.I. 2020/617), the Somalia (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/642), the Iraq (Sanctions)(EU Exit) Regulations 2020 (S.I. 2020/707), the Mali (Sanctions)(EU Exit) Regulations 2020 (S.I. 2020/705); the Sudan (Sanctions)(EU Exit) Regulations 2020 (S.I. 2020/753), the Afghanistan (Sanctions)(EU Exit) Regulations 2020 (S.I. 2020/948), the Yemen (Sanctions) (EU Exit)(No.2) Regulations 2020 (S.I. 2020/1278), the Libya (Sanctions)(EU Exit) Regulations 2020 (S.I. 2020/1665), ("**the various 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 negative procedure, is laid before Parliament on 19 July 2022 under section 55(3) of the Sanctions Act and comes into force on 9 August 2022, 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(3);

- (f) regulation 7(4);
- (g) regulation 8(2);
- (h) regulation 9(2);
- (i) regulation 10(3);
- (j) regulation 11(3);
- (k) regulation 12(3);
- (l) regulation 13(2);
- (m) regulation 14(2);
- (n) regulation 15(3);
- (o) regulation 16(2);
- (p) regulation 17(4)

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the same as the territorial extent of the instruments 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 instruments 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. 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 (Miscellaneous Amendments) 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 makes amendments to the various 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 various amended Regulations.

- 7.2 This instrument inserts a new information sharing power in each of the various 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 sanctions.
- 7.3 This instrument widens the definition of a “relevant firm” (which is, inter alia, subject to certain reporting obligations to the Treasury), to include crypto-asset exchange providers and custodian wallet providers in each of the various amended Regulations.
- 7.4 Regulations 6(2), 10(2), 12(2) and 15(2) make amendments to the ISIL (Da’esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019, the Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, the Iraq (Sanctions) (EU Exit) Regulations 2020 and the Afghanistan (Sanctions)(EU Exit) Regulations 2020 respectively, to clarify that the definition of ‘designated person’ in the Treasury licence regulation has the same meaning as in Part 3 (Finance) of the relevant Regulations.
- 7.5 Regulation 7(2) makes a correction in the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 to a cross-reference in respect of reporting obligations arising due to a transfer of funds to a ring-fenced account. Regulation 7(3) corrects a grammatical error in the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019.
- 7.6 Regulation 11(2) makes an amendment to the Somalia (Sanctions) (EU Exit) Regulations 2020 to reflect the change in name of the African Union’s mission in Somalia from AMISOM to ATMIS as per UN Security Council Resolution 2628.
- 7.7 Regulation 17(2) makes a correction to regulation 43 of the Libya (Sanctions) (EU Exit) Regulations 2020 (the “Libya Regulations”) to provide that, for the purposes of the partial asset-freeze provisions in the Libya Regulations, it is not a breach of financial sanctions to credit a frozen account with interest.
- 7.8 Regulation 17(3) makes a correction in the Libya Regulations to specify that the licence grounds available in respect of the Libya Investment Authority and Libya Africa Investment Portfolio include the purpose of satisfying prior obligations as set out in Part 2.

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 various 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 various 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 various 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 various amended 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.

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 Rehman Chishti, Parliamentary Under-Secretary of State at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.