
STATUTORY INSTRUMENTS

2023 No. 616

The Republic of Belarus (Sanctions) (EU
Exit) (Amendment) Regulations 2023

PART 7

Enforcement

Amendments to regulation 48 (penalties for offences)

18. In regulation 48(4), in the opening words—

- (a) for “or”, occurring immediately before “42 (information offences in connection with Part 3)”, substitute “;”;
- (b) after “42 (information offences in connection with Part 3)” insert “, or 45B (internet services: information offences)”.

Amendments to regulation 50 (jurisdiction to try offences)

19. In regulation 50(1)—

- (a) for “or”, occurring immediately before “regulation 38(6), substitute “;”;
- (b) after “42 (information offences in connection with Part 3)” insert “, or 45B (internet services: information offences)”.

Amendments to regulation 53 (trade enforcement: application of CEMA)

20. In regulation 53, after paragraph (3), insert—

“(3A) The Commissioners may not investigate the suspected commission of an offence listed in paragraph (3B) (a “suspected offence”), unless the suspected offence has been the subject of—

- (a) a referral to the Commissioners by—
 - (i) the Secretary of State,
 - (ii) the Treasury, or
 - (iii) OFCOM, where such referral relates to a suspected offence under regulation 27P(4); or
- (b) a decision by the Commissioners to treat the suspected offence as if it had been referred to them under sub-paragraph (a).

(3B) Paragraph (3A) applies to the suspected commission of an offence under any of the following provisions—

- (a) regulation 22(3),
- (b) regulation 24A(3),
- (c) regulation 27(3),

- (d) regulation 27K(5),
- (e) regulation 27L(3) insofar as it applies to the prohibitions at regulation 27L(1)(c) and (d),
- (f) regulation 27M(4) insofar as it applies to the prohibitions at regulation 27M(1)(c) and (d),
- (g) regulation 27M(5) insofar as it applies to any activity prohibited under regulation 27M(2) which relates to arrangements described in sub-paragraphs 27M(1)(c) and (d),
- (h) regulation 27P(4).

(3C) Regulation 53(3A) also applies to the suspected commission of a relevant offence under any of regulations 36(1), 36(2), 44(6) and 45(5) insofar as—

- (a) the suspected offence relates to a licence issued under regulation 33, and
- (b) the prohibited activity authorised by that licence would, if no licence had been issued, amount to an offence specified in paragraph (3B)(a) to (h).”.

OFCOM: enforcement

21. After regulation 56 (monetary penalties) insert—

“OFCOM: power to impose monetary penalties

56A.—(1) OFCOM may impose a monetary penalty on a person if they are satisfied, on the balance of probabilities, that—

- (a) the person has failed to comply with a requirement that is imposed under regulation 27P (internet services), or
- (b) the person has failed to comply with an obligation that is imposed by or under regulation 45A (internet services: power to request information and produce documents).

(2) The amount of the penalty is to be such amount as OFCOM may determine, not exceeding £1,000,000.

(3) Any monetary penalty payable under this regulation is recoverable by OFCOM as a civil debt.

(4) Any monetary penalty received by OFCOM by virtue of this regulation must be paid into the Consolidated Fund.

OFCOM: monetary penalties: procedural rights

56B.—(1) Before imposing a monetary penalty on a person under regulation 56A, OFCOM must inform the person of their intention to do so.

(2) OFCOM must also—

- (a) explain the grounds for imposing the penalty,
- (b) specify the amount of the penalty,
- (c) explain that the person is entitled to make representations, and
- (d) specify the period within which any such representations must be made.

(3) If (having considered any representations), OFCOM decides to impose the penalty, OFCOM must inform the person of their decision.

(4) A person to which the decision relates may appeal to the Upper Tribunal against the decision.

(5) On an appeal under paragraph (4), the Upper Tribunal may—

- (a) dismiss the appeal,
- (b) quash OFCOM's decision to impose the penalty, or
- (c) uphold that decision but substitute a different amount for the amount determined by OFCOM.”.