

EXPLANATORY MEMORANDUM TO
THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 3) REGULATIONS
2024

2024 No. 834

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office (FCDO) and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 The Hon Stephen Doughty MP, Minister of State at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.
- 2.2 Abigail Culank, Deputy Director for Sanctions Directorate, at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 The Sanctions Directorate at the Foreign, Commonwealth and Development Office Telephone: 0207 008 8553 or email: fcdo.correspondence@gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This instrument is made under the Sanctions and Anti-Money Laundering Act 2018 (“the Sanctions Act”). It revokes and replaces the Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations (S.I. 2024/695), which amended the provisions of the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) (“the Russia Regulations”) under which the Secretary of State may apply sanctions to persons (referred to as “designation”) and to ships (referred to as “specification”).

Where does the legislation extend to, and apply?

- 4.2 The instrument extends to the whole of the United Kingdom (“UK”).
- 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.
- 4.4 This instrument also applies to conduct by UK persons where that conduct is wholly or partly outside the UK, and to conduct undertaken by any person in the territorial sea adjacent to the UK. “UK person” is defined in section 21(2) of the Sanctions Act.

5. Policy Context

What is being done and why?

- 5.1 The instrument revokes and replaces S.I. 2024/695. The Regulations are being replaced to provide additional time for the required Parliamentary scrutiny within the 28 days provided for in the Sanctions Act and to avoid them otherwise ceasing to have effect. Should S.I. 2024/695 cease to have effect, that would result in the withdrawal of key actions taken under the powers created by that S.I. This includes action to sanction 17 Russian vessels, including 15 in Russia's 'Shadow Fleet'. There are no amendments to the policy; the substance of this instrument is materially the same as S.I. 2024/695.
- 5.2 As of July 2024, the UK has designated over 2000 individuals and entities under the Russia Regulations, over 1,700 of which have been sanctioned since Russia's illegal invasion. Major steps have been taken to cut Russia off from the global financial system; limit Russian energy-related revenues, including through the Oil Price Cap; and restrict Russia's military-industrial complex, including by banning all items with a potential military application.
- 5.3 In response to the sanctions imposed by the UK and the Group of Seven ("G7"), Russia has resorted to extensive, elaborate and costly means to try and work around sanctions. Russia is using complex supply routes via third countries to acquire sanctioned products and is developing parallel trade networks to enable exports such as oil, which are critical sources of revenue for its war of aggression against Ukraine.
- 5.4 The UK is committed to taking further action to stop Russia from acquiring items critical for battlefield capability and to constrain its ability to generate war revenues from its exports. Together with international partners, the UK published the Common High Priority Items List to support authorities and business in third countries to focus their efforts on limiting supply chains that are helping sustain the Russian war effort. The UK has also levelled further sanctions against third country suppliers of military and dual-use goods, including but not limited to Iranian drone manufacturers, as well as those involved in facilitating Russia's circumvention of the Oil Price Cap.
- 5.5 In this context, this instrument forms part of the UK's ongoing response to Russian aggression and reflects our resolve to mobilise all tools at our disposal. To this end, the instrument expands the basis on which the Secretary of State may designate persons under the Russia Regulations. The instrument amends regulation 6 (designation criteria) to introduce additional activities for which a person may be designated. Specifically, the additional activities for which a person may be designated are: providing financial services, or making available funds, economic resources, goods or technology to persons involved in obtaining a benefit from or supporting the Government of Russia; and for owning or controlling directly or indirectly, or working as a director, trustee, other manager or equivalent of a person, other than an individual, involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine.
- 5.6 The instrument also introduces additional activities for the specification of ships, responding to the growing risk posed by malign Russian maritime activity. The amendments to regulation 57F (specification of ships) provide that a ship may be specified for any activity whose object or effect is to destabilise Ukraine or undermine or threaten the territorial integrity, sovereignty, or independence of Ukraine, or to obtain a benefit from or support the Government of Russia. This includes the carrying of military or dual-use goods, oil or oil products that originated in Russia, or any other goods or technology that could contribute to destabilising Ukraine or undermining or

threatening the territorial integrity, sovereignty, or independence of Ukraine. Where a ship is specified under Regulation 57F, it will be subject to measures in regulations 57A – 57E. A specified ship will also be prohibited from receiving financial services and brokering services from UK providers that would otherwise be permitted under the Oil Price Cap licence.

- 5.7 Limited exceptions and licensing grounds will apply to these amendments. For example, a specified ship will be subject to the exceptions set out in Part 7 of the Russia Regulations, including, inter alia, regulations 60D and 61A (including where port entry is needed in case of emergency). Licences may be granted for various purposes derogating from a designation or specification, in line with relevant statutory criteria. The exceptions and licensing grounds are set out in full in the Russia Regulations.

What was the previous policy, how is this different?

- 5.8 The Secretary of State previously had powers under regulation 6 of the Russia Regulations included grounds to designate persons providing financial services, or making available funds, economic resources, goods or technology, that could contribute to destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine. They also included grounds to designate persons owning or controlling directly or indirectly, or working as a director, trustee, or other manager or equivalent of a person, other than an individual, involved in obtaining a benefit from or supporting the Government of Russia. This instrument introduces equivalent designation grounds for the first in relation to persons that are involved in obtaining a benefit from or supporting the Government of Russia, and for the second in relation to persons that are involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine.
- 5.9 The Secretary of State previously had limited powers to specify ships under regulation 57F of the Russia Regulations, namely where a ship was used for any activity whose object or effect was to contravene or circumvent, or to enable or facilitate the contravention or circumvention of, provisions contained in the Russia Regulations. This instrument amends regulation 57F to extend the activities for which the Secretary of State may specify ships commensurate with the risk posed by malign Russian maritime activity. This includes powers to specify ships carrying oil that originated in Russia, designed to supplement UK objectives of constraining Russian revenues that could otherwise be used to fund Russia's war in Ukraine while maintaining global market stability and protecting energy security.

6. Legislative and Legal Context

How has the law changed?

- 6.1 This instrument applies to regulations made under powers in the Sanctions Act. The Sanctions Act establishes a legal framework which enables His Majesty's Government to impose sanctions for a number of purposes, including 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 exercises powers in sections 11 and 14 of the Sanctions Act which enable the Secretary of State to make provision as to the meaning, for the purposes of the regulations, of a person and a ship being involved in activity specified in the regulations.

- 6.3 The instrument makes amendments to the designation criteria in regulation 6 of the Russia Regulations to specify additional activities for which a person may be designated.
- 6.4 The instrument also makes amendments to the ship specification criteria in regulation 57F of the Russia Regulations to specify additional activities for which a ship may be specified.

Why was this approach taken to change the law?

- 6.5 This instrument forms part of the UK's ongoing response to counter Russia's efforts to circumvent UK and G7 sanctions and amends the Russia Regulations to specify additional activities for the designation of persons and specification of ships. Amending the Russia Regulations under the legal framework provided by the Sanctions Act is considered the most effective and appropriate way to change the law to maintain and increase the economic pressure levied by the Russia Regulations.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 No public consultation has been carried out on this instrument. The Explanatory Memorandum to the Russia Regulations themselves explains that consultation was carried out in relation to the Sanctions Act.
- 7.2 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. His Majesty's Government will continue engagement with stakeholders on the implementation of UK sanctions.

8. Applicable Guidance

- 8.1 In accordance with section 43 of the Sanctions Act, guidance has been published in relation to the prohibitions and requirements under the Russia Regulations. This guidance will be updated to reflect the amendments to the Russia Regulations made by this instrument. This guidance will be available on GOV.UK once these regulations come into force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sector is foreseen. A de minimis assessment has been prepared as this instrument is likely involve only minor administrative costs for UK businesses.

Impact on businesses, charities and voluntary bodies

- 9.2 There may be impact on business, with minor administrative costs for UK businesses, including but not limited to those operating in the shipping industry (including providers of ancillary services related to shipping). The legislation does impact small or micro businesses. No specific action is proposed to mitigate regulatory burdens on small or micro businesses.
- 9.3 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.

- 9.4 There is no significant impact on the public sector because the main cost would be administration and enforcement and the infrastructure for this is already in place.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 If His Majesty's Government 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 Russia 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.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 This instrument, which is subject to the made affirmative procedure, is laid before Parliament on 30 July 2024 under section 55(3) of the Sanctions Act and comes into force on the 31 July 2024.

Matters of special interest to the Joint Committee on Statutory Instruments

- 11.2 This instrument revokes and replaces S.I. 2024/695 in order to provide additional time for the required Parliamentary scrutiny. To avoid ceasing to have effect, the instrument must be approved by both Houses of Parliament within 28 days of being made, in accordance with section 55(3)(b) of the Sanctions Act.
- 11.3 There are no amendments to the policy in relation to Russian sanctions and the substance of this instrument is materially the same as S.I. 2024/695.
- 11.4 This instrument takes the opportunity to include a fuller citation of the vires.

12. European Convention on Human Rights

- 12.1 The Hon Stephen Doughty MP, Minister of State at the Foreign Commonwealth and Development Office, has made the following statement regarding Human Rights:
“In my view the provisions of the Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2024 are compatible with the Convention rights.”

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023.