

EXPLANATORY MEMORANDUM TO
THE MALI (SANCTIONS) (EU EXIT) (AMENDMENT) AND SANCTIONS
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2024

2024 No. 946

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 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 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@fcdo.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 The legislation makes a series of modifications to the Mali (Sanctions) (EU Exit) Regulations 2020 (“the Mali Regulations”) to introduce additional purposes and designation criteria to enable the UK to sanction persons (1) who obstruct Mali’s return to constitutional, civilian rule or (2) who undermine the rule of law. It also removes references relating to UN obligations which no longer apply.
- 4.2 The legislation also amends the Mali Regulations, 2019 (“the CT (International) Regulations”), and the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 (“the CT Regulations”) to make general provision for licensing, following their amendment by the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 to provide for director disqualification licensing.

Where does the legislation extend to, and apply?

- 4.3 The territorial extent of this instrument is 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 some parts of it also apply to conduct by any person in the territorial sea adjacent to the UK.

5. Policy Context

What is being done and why?

- 5.1 The Mali Regulations implemented the UK's international obligations regarding UN sanctions in respect of Mali and established the UK autonomous regime.
- 5.2 On 30 August 2023, Russia vetoed a UAE/France co-penned draft UN Security Council resolution (UNSCR) to renew the Mali sanctions regime and the Panel of Experts mandate. Russia's veto meant that the UN Mali sanctions regime expired on 31 August 2023, with the UN Panel of Experts issuing its final report on 27 December 2023.
- 5.3 This instrument therefore removes references to the expired UN regime. The UK's Mali regime will henceforth be a fully autonomous regime.
- 5.4 Given the ongoing security, stability and humanitarian situation in Mali, especially with the involvement of Russian proxies who commit widespread human rights abuses against civilians, it is necessary to maintain an autonomous sanctions regime. The withdrawal of the UN Peacekeeping Mission in Mali (MINUSMA) in 2023 has created a more permissive operating space for jihadist groups and led to a resurgence of fighting between Malian Defence and Security Forces, supported by Wagner Group, and northern Tuareg armed groups. Instances of extrajudicial killings, arbitrary arrests, sexual violence, torture and other cruel, inhuman or degrading treatment have soared. Increased conflict in northern Mali has driven continued high levels of forced displacement.
- 5.5 This instrument will strengthen the Mali regime by introducing additional designation criteria, which will enable the UK to sanction persons (1) who obstruct Mali's return to constitutional, civilian rule or (2) who undermine the rule of law.
- 5.6 Expanding the designation criteria will ensure that the regime remains effective and relevant to the ongoing security situation in Mali, supporting the ongoing pathway towards constitutional, civilian rule.
- 5.7 This instrument will also make general provision for licensing in the Mali Regulations, the CT (International) Regulations and the CT Regulations, following the amendment of those instruments by the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 to provide for director disqualification licensing.
- 5.8 These set out the conditions and procedure under which HM Treasury (HMT) and the Department for Business and Trade (DBT) may issue a licence to persons to allow them to undertake activity that is otherwise prohibited.
- 5.9 The Company Directors Disqualification Act 1986 for England, Wales and Scotland, along with the Company Directors Disqualification (Northern Ireland) Order 2002 (as amended by the Economic Crime and Corporate Transparency Act 2023), provides for the publication of designations and licences in relation to this sanction on the Director Disqualification Register and Northern Ireland equivalent, which will be maintained by Companies House and Northern Ireland Department for the Economy respectively. Designations will also be published on the UK Sanctions List maintained by FCDO.¹

¹ <https://www.gov.uk/government/publications/the-uk-sanctions-list>

What was the previous policy, how is this different?

- 5.10 The Regulations make a range of technical changes to the Mali Regulations to remove reference to expired UN obligations, thereby making the UK Mali sanctions regime an autonomous sanctions regime rather than a mixed regime.
- 5.11 The Regulations also introduce new sanctions designation criteria. Under the new regulations, the UK will have the power to designate individuals (1) who obstruct Mali's return to constitutional, civilian rule or (2) individuals, such as some members of Mali's Transitional Authorities, who undermine the rule of law.
- 5.12 These additional designation criteria are being added in order to clarify the provisions to enable the regime to be used more effectively to promote peace, stability and security in Mali. The new criteria will ensure that the Mali autonomous regime is able to capture all those who undermine the rule of law and constitutional order in Mali. This will ensure that the Mali autonomous sanctions regime is robust, and able to be used in response to an increasingly complex political and security situation in Mali.
- 5.13 This instrument makes general provision for licensing under the Mali Regulations, the CT (International) Regulations and the CT Regulations, setting out the conditions and procedure under which HMT and DBT may issue a licence to persons to allow them to undertake activity that is otherwise prohibited under these regimes. These bring these regimes into line with other sanctions regimes where director disqualification licensing was provided for by the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024.

6. Legislative and Legal Context

How has the law changed?

- 6.1 This instrument is made in exercise of powers conferred by the Sanctions and Anti-Money Laundering Act 2018 ("the Sanctions Act"), which enables sanctions regulations to be made for various purposes, including compliance with UN obligations.
- 6.2 As set out above, this instrument removes references to expired UN obligations in the 2020 Regulations and adds further purposes and designation criteria to the autonomous Mali regime.
- 6.3 This instrument amends the Mali Regulations, the CT (International) Regulations and the CT Regulations to make general provision for licensing, following the introduction of the power to impose director disqualification sanctions and provision for director disqualification licensing under these regimes by the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024. Those Regulations exercised a power in section 3A of the Sanctions Act, inserted by the Economic Crime and Corporate Transparency Act 2023, to enable the Secretary of State to impose director disqualification sanctions. This instrument exercises a power in section 15(2) of the Sanctions Act to enable the Secretary of State to issue licenses.

Why was this approach taken to change the law?

- 6.4 Amending the Mali Regulations, the CT (International) Regulations and the CT Regulations under the legal framework provided by the Sanctions Act was considered to be the most effective and appropriate way to change the law and is in line with the approach which has been taken for associated sanctions measures.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 No consultation has been carried out on this instrument.
- 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. HM 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 Sanctions Act. This guidance will be updated to reflect the amendments to those Regulations made by this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full impact assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary, or public sector is foreseen.
- 9.2 An impact assessment was produced for the primary legislation. The assessment concluded that the introduction of the Sanctions Act, and statutory instruments under it to transfer existing sanctions regimes into UK law, would overall reduce uncertainty for business and would not result in significant costs or impact, apart from some familiarisation costs for businesses associated with adapting to the new legislative framework.

Impact on businesses, charities and voluntary bodies

- 9.3 There is no, or no significant, impact on business, charities or voluntary bodies as this is an update to existing legislation.
- 9.4 The legislation does not impact small or micro businesses.
- 9.5 There is no significant impact on the public sector as this is an update to existing legislation.

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. 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 negative procedure, is laid before Parliament on 12 September under section 55(6) of the Sanctions Act and comes into force on 3 October 2024.

12. European Convention on Human Rights

- 12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

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.