



Sanctions and Anti-Money Laundering Act 2018

2018 CHAPTER 13

PART 3

GENERAL

Supplementary

52 Crown application

- (1) Regulations under section 1 or 49 may make provision binding the Crown.
- (2) The regulations may not provide for the Crown to be criminally liable.
- (3) Nothing in this Act affects Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947).

53 Saving for prerogative powers

- (1) Nothing in this Act affects any power to exclude a person from the United Kingdom by virtue of the prerogative of the Crown.
- (2) Nothing in this Act affects any power exercisable in relation to ships by virtue of the prerogative of the Crown.

54 Regulations: general

- (1) Regulations under this Act may—
 - (a) make different provision for different purposes;
 - (b) confer functions on a prescribed person;
 - (c) confer jurisdiction on any court or tribunal.

- (2) Regulations under this Act may make supplemental, incidental, consequential, transitional or saving provision, including—
- (a) in the case of regulations under section 1 or 49, provision amending, repealing or revoking enactments (whenever passed or made), and
 - (b) in the case of regulations under section 1 which repeal or revoke an enactment, provision for persons designated by or under that enactment to be treated as persons designated under the regulations.
- (3) Regulations under section 1 may amend the definition of “terrorist financing” in section 49(3) so as to remove any reference to a provision of regulations that is revoked by regulations under section 1.
- (4) Regulations under section 1 may amend the definition of “terrorist financing” in section 49(3) so as to add a reference to a provision of regulations under section 1 that contains an offence, but only if—
- (a) each purpose of the regulations containing the offence, as stated under section 1(3), is compliance with a UN obligation or other international obligation, or
 - (b) paragraph (a) does not apply but the report under section 2 in respect of the regulations containing the offence indicates that, in the opinion of the appropriate Minister making those regulations, the carrying out of a purpose stated in those regulations under section 1(3) would further the prevention of terrorism in the United Kingdom or elsewhere.
- (5) Any power under this Act to make regulations is exercisable by statutory instrument.
- (6) In this section “enactment” includes—
- (a) an enactment contained in any Order in Council, order, rules, regulations or other instrument made under an Act,
 - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
 - (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales,
 - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation, and
 - (e) any retained direct EU legislation.
- (7) In subsection (2)(b) the reference to persons “designated” by or under a repealed or revoked enactment includes, where the enactment is retained direct EU legislation, persons listed in or under that enactment.
- (8) This section does not apply to regulations under—
- (a) section 56 (regulations under section 1: transitory provision), or
 - (b) section 64 (commencement).

55 Parliamentary procedure for regulations

- (1) Subsection (3) applies to a statutory instrument which—
- (a) contains non-UN regulations under section 1 (see subsection (7)),
 - (b) does not contain any UN regulations under that section, and
 - (c) is not a statutory instrument mentioned in subsection (5)(a) to (d).

- (2) Subsection (3) also applies to a statutory instrument which contains only regulations under section 49 which make new provision about high-risk countries (see subsection (9)).
- (3) A statutory instrument to which this subsection applies—
- must be laid before Parliament after being made, and
 - if not approved by a resolution of each House of Parliament before the end of 28 days beginning with the day on which it is made, ceases to have effect at the end of that period (but without that affecting anything done under the regulations or the power to make new regulations).
- (4) In calculating a period of 28 days for the purposes of subsection (3), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (5) A statutory instrument containing (whether alone or with other provision)—
- regulations under section 1 that repeal, revoke or amend any provision of primary legislation,
 - regulations under section 47,
 - regulations under section 48, or
 - regulations under section 49,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- This subsection does not apply to a statutory instrument to which subsection (3) applies by virtue of subsection (2).
- (6) A statutory instrument containing regulations under this Act which is not—
- a statutory instrument to which subsection (3) applies,
 - a statutory instrument mentioned in subsection (5)(a) to (d),
 - a statutory instrument containing only regulations under section 56, or
 - a statutory instrument containing only regulations under section 64,
- is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In subsection (1) “UN regulations” means regulations under section 1 that—
- are regulations the stated purpose of which, or one of the stated purposes of which, is compliance with a UN obligation, or
 - amend regulations under section 1 the stated purpose of which, or one of the stated purposes of which, is compliance with a UN obligation,
- and “non-UN regulations” means any regulations under section 1 which are not UN regulations.
- (8) For the purposes of subsection (7), a purpose is a “stated purpose” of regulations under section 1 if it is stated under section 1(3) in the regulations.
- (9) For the purposes of subsection (2), regulations under section 49 “make new provision about high-risk countries” if they add or remove an entry in a list of countries in relation to which enhanced customer due diligence measures are required to be taken by virtue of—
- the Money Laundering Regulations 2017 (S.I. 2017/692), or
 - regulations under section 49.

- (10) In this section “primary legislation” means—
- (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) a Measure or Act of the National Assembly for Wales, or
 - (d) Northern Ireland legislation.

56 Regulations under section 1: transitory provision

- (1) If the appropriate Minister making a statutory instrument containing (whether alone or with other provision) any regulations under section 1 considers it is appropriate to do so in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, the instrument may provide that it comes into force, or that any provision of regulations contained in the instrument comes into force, on such day as that Minister may by regulations under this section appoint.
- (2) Any power of an appropriate Minister to appoint a day under this section includes—
 - (a) a power to appoint different days for different purposes, and
 - (b) a power to appoint a time on a day if that Minister considers it appropriate to do so (including a time that has effect by reference to the coming into force of any other enactment).
- (3) Any power under this section to make regulations is exercisable by statutory instrument.
- (4) Subsection (5) applies in the case of a statutory instrument—
 - (a) which contains provision by virtue of subsection (1) of this section, and
 - (b) to which section 55(3) applies by virtue of subsection (1) of that section.
- (5) Where this subsection applies—
 - (a) the reference in section 55(3)(b) to the day on which the statutory instrument is made is to be read as a reference to the first day on which any provision of the regulations contained in the instrument comes into force for any purpose in accordance with regulations under this section, and
 - (b) any reference in section 55(3) or (4) to 28 days is to be read as a reference to 60 days.
- (6) In this section “enactment” includes an enactment mentioned in any of paragraphs (a) to (d) of section 54(6).

57 Duties to lay certain reports before Parliament: further provision

- (1) In this section “a reporting provision” means section 2(4), 18(2) or 46(2) or paragraph 21(2) of Schedule 2 (duties to lay before Parliament certain reports relating to regulations).
- (2) Where more than one reporting provision applies in relation to particular regulations under section 1, the reports to which those provisions relate may be contained in a single document.
- (3) If a reporting provision is not complied with, the appropriate Minister who should have complied with that provision must publish a written statement explaining why that Minister failed to comply with it.

- (4) Subsection (5) applies where a reporting provision applies and—
- (a) a statutory instrument containing the regulations concerned, or
 - (b) a draft of such an instrument,
- is laid before the House of Commons and House of Lords on different days.
- (5) Where this subsection applies, the reporting provision in question is to be read as requiring the laying of a copy of the report to which that provision relates—
- (a) before the House of Commons at the time the instrument or draft mentioned in subsection (4) is laid before the House of Commons, and
 - (b) before the House of Lords at the time that instrument or draft is laid before the House of Lords.

58 Retained EU rights

- (1) If and to the extent that anything in the European Union (Withdrawal) Act 2018 would, in the absence of this section, prevent any power within subsection (2) from being exercised so as to modify anything which is retained EU law by virtue of section 4 of that Act (saving for certain rights etc), it does not prevent that power from being so exercised.
- (2) The following powers fall within this subsection—
- (a) any power conferred by this Act, or by regulations under this Act, on a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975 (however that power is expressed);
 - (b) any power conferred by regulations under Schedule 2 on a supervisory authority.
- (3) In this section “modify” has the same meaning as in the European Union (Withdrawal) Act 2018.

59 Consequential amendments and repeals

- (1) Part 1 of the Terrorist Asset-Freezing etc Act 2010 is repealed, except for—
- (a) paragraphs 1 to 5 of Schedule 1 to that Act (amendments of rules of court), and
 - (b) section 45(1) of that Act so far as it introduces that Schedule.
- (2) Neither paragraphs 1 to 5 of Schedule 1 to that Act, nor the exception of those paragraphs from the repeal made by subsection (1), affects any power to amend or revoke any provision of—
- (a) the Rules of the Court of Judicature (Northern Ireland) 1980 (S.R. 1980/346), or
 - (b) the Civil Procedure Rules 1998 (S.I. 1998/3132).
- (3) Subsection (1) does not affect the power in section 54 of the Terrorist Asset-Freezing etc Act 2010 to make provision by Order in Council extending to any of the Channel Islands, the Isle of Man or any British overseas territory.
- (4) Part 1 of Schedule 3 contains amendments consequential on Parts 1 and 2 of this Act.
- (5) Part 2 of Schedule 3 contains repeals and other provision consequential on subsection (1).

Definitions

60 Meaning of “funds”, “economic resources” and “freeze”

- (1) In this Act “funds” means financial assets and benefits of every kind, including (but not limited to)—
- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (b) deposits, balances on accounts, debts and debt obligations;
 - (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;
 - (d) interest, dividends and other income on or value accruing from or generated by assets;
 - (e) credit, rights of set-off, guarantees, performance bonds and other financial commitments;
 - (f) letters of credit, bills of lading and bills of sale;
 - (g) documents providing evidence of an interest in funds or financial resources;
 - (h) any other instrument of export financing.
- (2) In this Act “economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services.
- (3) In this Act references to “freezing” funds are to preventing funds from being dealt with; and for the purposes of this subsection funds are “dealt with” if—
- (a) they are used, altered, moved, or transferred or access is allowed to them,
 - (b) they are dealt with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or
 - (c) any other change is made that would enable their use, including portfolio management.
- (4) In this Act references to “freezing” economic resources are to preventing economic resources from being dealt with; and for the purposes of this subsection economic resources are “dealt with” if—
- (a) they are exchanged for funds, goods or services, or
 - (b) they are used in exchange for funds, goods or services (whether by being pledged as security or otherwise).

61 Meaning of “financial services” and “financial products”

- (1) In this Act “financial services” means any service of a financial nature, including (but not limited to)—
- (a) insurance-related services consisting of—
 - (i) direct life assurance;
 - (ii) direct insurance other than life assurance;
 - (iii) reinsurance and retrocession;
 - (iv) insurance intermediation, such as brokerage and agency;
 - (v) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

- (b) banking and other financial services consisting of—
 - (i) accepting deposits and other repayable funds;
 - (ii) lending (including consumer credit, mortgage credit, factoring and financing of commercial transactions);
 - (iii) financial leasing;
 - (iv) payment and money transmission services (including credit, charge and debit cards, travellers' cheques and bankers' drafts);
 - (v) providing guarantees or commitments;
 - (vi) financial trading (as defined in subsection (2));
 - (vii) participating in issues of any kind of securities (including underwriting and placement as an agent, whether publicly or privately) and providing services related to such issues;
 - (viii) money brokering;
 - (ix) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
 - (x) settlement and clearing services for financial assets (including securities, derivative products and other negotiable instruments);
 - (xi) providing or transferring financial information, and financial data processing or related software (but only by suppliers of other financial services);
 - (xii) providing advisory and other auxiliary financial services in respect of any activity listed in sub-paragraphs (i) to (xi) (including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy).
- (2) In subsection (1)(b)(vi), “financial trading” means trading for own account or for account of customers, whether on an investment exchange, in an over-the-counter market or otherwise, in financial products.
- (3) In this Act “financial products” means—
- (a) money market instruments (including cheques, bills and certificates of deposit);
 - (b) foreign exchange;
 - (c) derivative products (including futures and options);
 - (d) exchange rate and interest rate instruments (including products such as swaps and forward rate agreements);
 - (e) transferable securities;
 - (f) other negotiable instruments and financial assets (including bullion).

62 Interpretation

- (1) In this Act—
- “appropriate Minister” is to be read in accordance with section 1(9);
 - “country” includes any territory, region or other place;
 - “designation power” has the meaning given by section 10(1);
 - “economic resources” has the meaning given by section 60(2);
 - “financial products” has the meaning given by section 61(3);
 - “financial services” has the meaning given by section 61(1);

“freeze”, in relation to funds or economic resources, has the meaning given by section 60(3) and (4);

“funds” has the meaning given by section 60(1);

“international obligation” has the meaning given by section 1(8);

“person” has the meaning given by section 9(5);

“prescribed”, in any provision relating to regulations, means prescribed by the regulations;

“retained direct EU legislation” has the same meaning as in the European Union (Withdrawal) Act 2018;

“retained EU law” has the same meaning as in that Act;

“the Security Council” means the Security Council of the United Nations;

“the territorial sea” (without more) means the territorial sea adjacent to the United Kingdom;

“terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1(1) to (4) of that Act);

“UN obligation” has the meaning given by section 1(8);

“UN Security Council Resolution” has the meaning given by section 1(8).

- (2) Any reference in this Act to a person named “for the purposes of” a UN Security Council Resolution so far as it provides for the taking of particular measures includes any person who, by virtue of—
- (a) being named for any purposes by the Security Council or a subsidiary organ of the Security Council, and
 - (b) the terms of the resolution,
- is a person in relation to whom the resolution provides for the measures to be taken.
- (3) Any reference in this Act to ships designated “for purposes of” a UN Security Council Resolution which provides for the taking of measures in relation to ships includes any ship which, by virtue of—
- (a) being designated for any purposes by the Security Council or a subsidiary organ of the Security Council, and
 - (b) the terms of the resolution,
- is a ship in relation to which the resolution provides for the measures to be taken.
- (4) Regulations under section 1 may make provision as to the meaning of any reference in the regulations to funds, economic resources or technology (or a particular description of funds, economic resources or technology) being—
- (a) owned by a person,
 - (b) held by a person,
 - (c) controlled by a person, or
 - (d) made available to or for the benefit of a person.
- (5) Regulations under section 1 may make provision as to the meaning of any reference in the regulations to a person “owning” or “controlling” another person.
- (6) Regulations under section 1 may make provision as to the connection that is required between—
- (a) a person, or a person of a prescribed description, and
 - (b) a country,

in order for the person to be regarded as “connected with” that country for the purposes of any provision of the regulations.

Final provisions

63 Extent

- (1) Subject to the following provisions of this section, this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Any amendment or repeal made by Schedule 3 of any provision of —
 - (a) the Senior Courts Act 1981,
 - (b) the Crime and Courts Act 2013, or
 - (c) the Charities Act 2011,does not extend to Scotland or Northern Ireland.
- (3) Her Majesty may by Order in Council provide for any of the provisions of Part 1, section 51 and this Part, or any regulations under Part 1 (whether made before or after the making of the Order in Council), to extend with or without modifications to—
 - (a) any of the Channel Islands;
 - (b) the Isle of Man;
 - (c) any of the British overseas territories.
- (4) The power conferred by subsection (3), so far as relating to regulations, includes power to provide for the regulations as amended from time to time to extend as mentioned in that subsection.
- (5) Her Majesty may by Order in Council provide for the repeal in section 59(1) (repeal of provisions of the Terrorist Asset-Freezing etc Act 2010) to extend to—
 - (a) any of the Channel Islands;
 - (b) the Isle of Man;
 - (c) any of the British overseas territories.
- (6) The power under section 36 of the Immigration Act 1971 may be exercised so as to extend to any of the Channel Islands or the Isle of Man any amendment made by this Act of any part of that Act (with or without modifications).
- (7) The power under section 272(6) of the Investigatory Powers Act 2016 may be exercised so as to extend to the Isle of Man or any of the British overseas territories any amendment made by this Act of any part of that Act (with or without modifications).

64 Commencement

- (1) The following provisions come into force on the day on which this Act is passed—
 - (a) section 32;
 - (b) section 50;
 - (c) sections 52 to 56;
 - (d) sections 60 to 63;
 - (e) this section;
 - (f) section 65.

Status: This is the original version (as it was originally enacted).

- (2) The remaining provisions of this Act come into force on such day as the Secretary of State may by regulations appoint.
- (3) Different days may be appointed for different purposes.
- (4) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (5) Any power under this section to make regulations is exercisable by statutory instrument.

65 Short title

This Act may be cited as the Sanctions and Anti-Money Laundering Act 2018.