
STATUTORY INSTRUMENTS

2014 No. 2357

CUSTOMS

**The Export Control (Russia, Crimea
and Sevastopol Sanctions) Order 2014**

Made - - - - *2nd September 2014*
Laid before Parliament *5th September 2014*
Coming into force - - *26th September 2014*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972⁽¹⁾ in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not member States⁽²⁾.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by sections 1, 2,3,4,5 and 7 of the Export Control Act 2002⁽³⁾ makes the following Order.

PART 1

Introductory

Citation, Commencement and Application

1.—(1) This Order may be cited as the Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014 and come into force on 26th September 2014.

(2) An offence may be committed under this Order—

- (a) in the United Kingdom by any person;
- (b) elsewhere by any person who is a United Kingdom person within the meaning of section 11 of the Export Control Act 2002.

Interpretation

2.—(1) In these Regulations—

(1) 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
(2) S.I. 1994/757, to which there are amendments not relevant to these Regulations.
(3) 2002 c.28.

“the 1979 Act” means the Customs and Excise Management Act 1979⁽⁴⁾;

“EU authorisation” means an authorisation granted under Articles 2(2), 3 or 4(3) of the Russia Sanctions Regulation;

“the Russia Sanctions Regulation” means Council Regulation (EU) No 833/2014⁽⁵⁾ concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine;

“the Crimea and Sevastopol Regulation” means Council Regulation (EU) No 692/2014⁽⁶⁾ as amended by Council Regulation (EU) No 825/2014⁽⁷⁾ concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol;

(2) An expression used both in this Order and the Russia Sanctions Regulation or the Crimea and Sevastopol Regulation has the meaning that it bears in those Regulations.

PART 2

Offences in relation to prohibitions in the Russia Sanctions Regulation

Offences related to dual-use goods and technology

3. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Russia Sanctions Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 2(1) (prohibition on sale etc. of dual-use goods or technology, to any natural or legal person, entity or body in Russia or for use in Russia, if those items are or may be intended, in their entirety or in part, for military use or for a military end-user);
- (b) Article 4(1)(c) (prohibition on the provision of technical assistance or brokering services related to dual-use goods and technology, to any natural or legal person, entity or body in Russia or for use in Russia, if the items are or may be intended, in their entirety or in part, for military use or for a military end-user);
- (c) Article 4(1)(d) (prohibition on the provision of financing or financial assistance related to dual-use goods and technology, to any natural or legal person, entity or body in Russia or for use in Russia, if the items are or may be intended, in their entirety or in part, for military use or for a military end-user).

Offences related to technologies listed in Annex II

4.—(1) Except under the authority of an EU authorisation, equipment and technologies listed in Annex II of the Russia Sanctions Regulation are prohibited to be exported from the United Kingdom, to any natural or legal person, entity or body in Russia or in any other country, if such equipment or technology is for use in Russia.

(2) A person commits an offence and may be arrested if that person—

- (a) is concerned in an activity, other than the export of technologies, for which EU authorisation is required by any of the following Articles of the Russia Sanctions Regulation—

(4) 1979 c.2.

(5) OJ No L 229, 31.7.2014, p1.

(6) OJ No L 183, 24.6.2014, p9.

(7) OJ No L 226, 30.7.2014, p2.

- (i) Article 3(1) (authorisation required for the sale, supply, etc. of technologies as listed in Annex II, to any natural or legal person, entity or body in Russia or in any other country, if such equipment or technology is for use in Russia);
 - (ii) Article 4(3)(a)(authorisation required for the provision of technical assistance or brokering services related to technologies listed in Annex II, to any natural or legal person, entity or body in Russia or, if such assistance concerns technologies for use in Russia, to any person, entity or body in any other country);
 - (iii) Article 4(3)(b)(authorisation required for the provision of financing or financial assistance related to technologies referred to in Annex II, to any natural or legal person, entity or body in Russia or, if such assistance concerns technologies for use in Russia, to any person, entity or body in any other country);
- (b) does not have the required EU authorisation; and
 - (c) is knowingly concerned in that activity with intent to evade a prohibition in those Articles.

Offences related to goods and technology listed in the Common Military List of the European Union

5. A person who is knowingly concerned in an activity prohibited by any of the following Articles of the Russian Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 4(1)(a) (prohibition on provision of technical assistance or brokering services related to the goods and technology listed in the Common Military List, to any natural or legal person, entity or body in Russia or for use in Russia);
- (b) Article 4(1)(b) (prohibition on the provision of financing or financial assistance related to the goods and technology listed in the Common Military List, to any natural or legal person, entity or body in Russia or for use in Russia).

PART 3

Offences in relation to prohibitions in the Crimea and Sevastopol Regulation

Offences related to the financing of imports of Crimean and Sevastopol goods

6. A person who is knowingly concerned in an activity prohibited by Article 2 (b) of the Crimea and Sevastopol Regulation (prohibition on the provision of financing or financial assistance as well as insurance and reinsurance related to the import of goods originating in Crimea or Sevastopol) with intent to evade a prohibition in that Article commits an offence and may be arrested.

Offences related to restrictions on financing certain enterprises

7. A person who is knowingly concerned in an activity prohibited by any of the following Articles of the Crimea and Sevastopol Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 2a(1)(a) (prohibition on the granting of any financial loan or credit relating to the creation etc. of infrastructure in the areas of transport, telecommunications or energy in Crimea or Sevastopol);
- (b) Article 2a(1)(b) (prohibition on the acquisition or extension of a participation in enterprises established in Crimea or Sevastopol that are engaged in the creation etc. of infrastructure in the areas of transport, telecommunications or energy in Crimea or Sevastopol);

- (c) Article 2a(1)(c) (prohibition on the creation of a joint venture relating the creation etc. of infrastructure in the areas of transport, telecommunications or energy in Crimea or Sevastopol).
- (d) Article 2a(2)(a) (prohibition on the granting of any financial loan or credit specifically relating to the exploitation of oil, gas or mineral resources in Crimea or Sevastopol);
- (e) Article 2a(2)(b) (prohibition on the acquisition or extension of a participation in enterprises established in Crimea or Sevastopol that are engaged in the exploitation of oil, gas or mineral resources in Crimea or Sevastopol);
- (f) Article 2a(2)(c) (prohibition of any joint venture relating to the exploitation of oil, gas or mineral resources in Crimea or Sevastopol);
- (g) Article 2b (prohibition on the provision of technical assistance, brokering services related to the investment activities referred to in Article 2a of the Crimea and Sevastopol Regulation).

Offences related to equipment or technology listed in Annex III

8. A person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Crimea and Sevastopol Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 2c(1) (prohibition on the sale etc. of key equipment and technology listed in Annex III to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol);
- (b) Article 2c(3)(a) (prohibition on the provision of technical assistance or brokering services related to the key equipment or technology listed in Annex III, to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol);
- (c) Article 2c(3)(b) (prohibition on the provision of financing or financial assistance related to the key equipment and technology listed in Annex III to any natural or legal person, entity or body in Crimea or Sevastopol, or for use in Crimea or Sevastopol).

PART 4

Supplementary Provisions as to Offences

Circumvention of prohibitions

9.—(1) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 2(1), 3(1), 4(1)(a) or (c) or 4(3)(a) of the Russia Sanctions Regulation or Article 2c(1) or 2c(3)(a) of the Crimea and Sevastopol Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 4(1)(b) or (d) or 4(3)(b) of the Russia Sanctions Regulation or Article 2(b), 2a, 2b or 2c(3)(b) of the Crimea and Sevastopol Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

Offences related to EU authorisations

10.—(1) A person commits an offence (and may be arrested) who, for the purpose of obtaining an EU authorisation—

- (a) makes any statement or furnishes any document or information which to that person’s knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless—

- (a) the EU authorisation was modified after the completion of the act authorised; and
- (b) the alleged failure to comply would not have been a failure had the EU authorisation not been so modified.

PART 5

Enforcement and Penalties

Penalties

11.—(1) A person guilty of an offence under articles 3(a) or (b), 4(2)(a)(i) or (ii), 5(a), 8(a) or (b) or 9(1) of this Order is liable—

- (a) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
 - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.
- (b) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine, or to both.

(2) In relation to an offence committed after the commencement of section 154(1) of the Criminal Justice Act 2003⁽⁸⁾, for “six months” in paragraph (1)(a)(i) substitute “twelve months”.

(3) A person guilty of an offence under articles 3(c), 4(2)(a)(iii), 5(b), 6, 7, 8(c), 9(2) or 10 of this Order is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(4) In the case of an offence committed under the 1979 Act in connection with the prohibitions of exportation in Articles 2(1) or 3(1) of the Russian Sanctions Regulation, article 4(1) of this Order or Article 2c of the Crimea and Sevastopol Regulation, sections 68(3)(b) and 170(3)(b)⁽⁹⁾ of the 1979 Act have the effect as if for the words “7 years” there were substituted the words “10 years”.

⁽⁸⁾ 2003 c.44; at the date of this Order, section 154(1) had not been commenced.

⁽⁹⁾ Sections 68(3)(b) and 170(3)(b) were amended by the Finance Act 1988 (c.39), section 12(1) and (6).

(5) In the case of an offence committed under the 1979 Act in connection with the prohibitions of importation in Article 2(a) of the Crimea and Sevastopol Regulation, sections 50(4)(b)(10) and 170(3)(b) of the 1979 Act have the effect as if for the words “7 years” there were substituted the words “10 years”.

Application of the 1979 Act

12.—(1) Where the Commissioners for Her Majesty’s Revenue and Customs investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under this Order has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 77A of the 1979 Act (provision as to information powers)(11) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Articles 2, 3 or 4(3) of the Russia Sanctions Regulation and accordingly references in section 77A of the 1979 Act to exportation shall be read as including any such activity.

(3) Section 138 of the 1979 Act (provision as to arrest of persons)(12) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 145(13), 146(14), 146A(15), 147(16), 148, 150(17), 151(18), 152(19), 154(20), and 155(21) of the 1979 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) “The customs and excise Acts” and “assigned matter” have the same meanings as in section 1 of the 1979 Act.

(10) Section 50(4)(b) was amended by the Finance Act 1988 (c.39), section 12(1) and (6).

(11) Section 77A was inserted by the Finance Act 1987 (c. 16), section 10 and amended by Schedule 1, paragraph 7 of the Customs and Excise (Single Market etc.) Regulations 1992 (S.I. 1992/3095).

(12) Section 138 was amended by the Police and Criminal Evidence Act 1984 (c. 60), sections 114(1) and 119, Schedule 6, paragraph 37 and Schedule 7, Part 1; by the Finance Act 1988 (c. 39), section 11; by the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341), article 90(1) and Schedule 6, paragraph 9; and by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 7, paragraph 54.

(13) Section 145 was amended by the Police and Criminal Evidence Act 1984, section 114(1); and by the Commissioners for Revenue and Customs Act 2005 (c. 11), sections 50(6), 52(2), Schedule 4, paragraphs 20 and 23.

(14) Section 146 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 22.

(15) Section 146A was inserted by the Finance Act 1989 (c. 26), section 16(1) and amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraphs 20 and 24.

(16) Section 147 was amended by the Magistrates’ Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 176; by the Criminal Justice Act 1982 (c. 48), sections 77 and 78, Schedule 14, paragraph 42 and Schedule 16; and by the Finance Act 1989, section 16(2), (4), 187, Schedule 17, Part I.

(17) Section 150 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20 and 25.

(18) Section 151 was amended by the Magistrates’ Courts Act 1980, section 154 and Schedule 7, paragraph 177.

(19) Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, sections 50(6) and 52(1) and (2), Schedule 4, paragraphs 20 and 26 and Schedule 5.

(20) Section 154 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 23.

(21) Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, sections 50(6), 52(2), Schedule 4, paragraphs 20, 21(j) and 27 and Schedule 5.

PART 6

General

Amendment to the Export Control Order 2008 in relation to Russia

13. In Schedule 4 to the Export Control Order 2008 (**22**)—

- (a) in Part 2, insert “Russia” at the appropriate place;
- (b) in Part 4, omit “Russia”.

Review

14.—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Russia Sanctions Regulation and the Crimea and Sevastopol Regulation and the measures taken to implement them in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Russia Sanctions Regulation and the Crimea and Sevastopol Regulation established by this Order and the measures taken to implement them,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this Order must be published before the end of the period of five years beginning with the day on which this Order comes into force.

(5) Reports under this Order are afterwards to be published at intervals not exceeding five years.

Matthew Hancock
Minister of State for Business and Enterprise and
Energy
Department for Business, Innovation and Skills

2nd September 2014

(22) S.I.2008/3231; relevant amending instruments are S.I. 2009/1305, S.I. 2009/1852, S.I. 2009/2151, S.I. 2009/2969, S.I. 2009/2748, S.I. 2010/121, S.I. 2010/2007, S.I. 2011/1043, S.I. 2011/1304, S.I. 2012/1910 and S.I. 2013/428.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the enforcement of certain trade restrictions against Russia specified in Council Regulation (EU) No 833/2014 (OJ No L 229, 31.7.2014, p1) (“the Russian Sanctions Regulation”). It also provides for the enforcement of trade and investment restrictions in response of the illegal annexation of Crimea and Sevastopol specified in Council Regulation (EU) No 692/2014 (OJ No L 183, 24.6.2014, p9) as amended by Council Regulation (EU) No 825/2014 (OJ No L 226, 30.7.14, p2) (“the Crimea and Sevastopol Regulation”). The Order sets out offences in relation to these prohibitions and those offences can be committed by any person in the United Kingdom and, around the world, by any United Kingdom person, as defined in section 11 of the Export Control Act 2002(c. 28).

The trade measures against Russia include restrictions on the export or supply of certain dual-use goods as well as on certain services related to the supply of arms and military equipment. There are also restrictions on the export or supply of certain technologies for the oil industry in Russia as listed in Annex II to the Russian Sanctions Regulation.

The trade sanctions against Crimea and Sevastopol include a ban on new investments related to infrastructure in the sectors of transport, telecommunications and energy and the exploitation of natural resources in Crimea and Sevastopol and an export ban on key equipment and technology related to those sectors.

Articles 3 to 5 create offences for contravention of the trade restrictions in Articles 2 to 4 of the Russia Sanctions Regulation. Articles 6 to 8 create offences for contravention of the restrictions in Articles 2(b) and 2a to 2c of the Crimea and Sevastopol Regulation. There are already offences relating to prohibited importation and exportation of goods in sections 50, 68 and 170 of the Customs and Excise Management Act 1979 (“the 1979 Act”)(1979 c.2).

Article 4(1) clarifies the scope of the control on exportation of technologies in Article 3 of the Russia Sanctions Regulation (which requires authorisation for the export of technologies listed in Annex II) so as to ensure that breaches of the export control created by that Article are amenable to action under the 1979 Act.

Article 9 creates offences for the circumvention of the prohibitions in the Russia Sanctions Regulation or the Crimea and Sevastopol Regulation.

Article 10 supplements the provisions of the Russia Sanctions Regulation that allow a competent authority to authorise activities that are otherwise prohibited. Article 10(1) makes it an offence knowingly and recklessly to provide false information for the purpose of obtaining an authorisation and Article 10(3) makes it an offence to fail to comply with authorisation requirements or conditions.

Article 11 sets out the penalties relating to the offences in the Order and makes some consequential modifications to the 1979 Act to ensure that the offences covered by that Act are subject to the same penalties as those in the Order.

Article 12 provides for the ancillary provisions which apply to the enforcement of customs and excise legislation to also apply to the enforcement of this Order.

Article 13 amends Part 2 of Schedule 4 to the Export Control Order 2008 (S.I. 2008/3231) to designate Russia as an “embargoed destination” for the purposes of application of stricter trade controls under that Order.

Article 14 requires the Secretary of State to review the operation and effect of the Order and publish a report within five years after the Order comes into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or amended. A further instrument would be needed to revoke the Order or to amend it.

A regulatory impact assessment has not been produced for this instrument as it has no or minimal impact on business, charities or voluntary bodies. A copy of the Explanatory Memorandum is published alongside the Order on www.legislation.gov.uk. Further information is available from the Export Control Organisation, BIS, 1 Victoria Street, London SW1H 0ET and on the gov.uk website (www.gov.uk).