

EXPLANATORY MEMORANDUM TO
THE REPUBLIC OF MALI (EUROPEAN UNION FINANCIAL SANCTIONS)
REGULATIONS 2017

2017 No. 972

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The Regulations provide for the enforcement through criminal law of the asset freeze contained in Council Regulation (EU) 2017/1770 concerning restrictive measures in view of the situation in Mali. The Council Regulation implements measures outlined in UN Security Council Resolution 2374 (2017).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 In the Joint Committee on Statutory Instruments' Seventh Report of Session 2016–17, the Committee invited HM Treasury to reconsider its approach to the repetition of EU provisions if the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2013 came to be revoked and replaced. HM Treasury wrote to the Clerk of the Joint Committee on Statutory Instruments on 21 December 2016 in response to those comments explaining why HM Treasury intends to continue with its approach in relation to financial sanctions Regulations.
- 3.2 The response to the Clerk of the Joint Committee on Statutory instruments dated 21 December explained that HM Treasury considers that it is necessary for the sake of coherence and appropriate to include the detail of the prohibitions imposed by sanctions regimes in its statutory instruments, in order that the elements of criminal behaviour are clear and comprehensible to any person reading the instrument. By detailing the prohibitions in the Regulations it is clear on the face of the legislation what conduct is considered criminal. HM Treasury also concludes that its approach to the detail of the prohibitions does not conceal the Community nature, effect and timing of the EU provisions. This instrument adopts the same approach to the issue as to that taken in other similar financial sanctions Regulations.

Other matters of interest to the House of Commons

- 3.3 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 These regulations have been made under section 2(2) of the European Communities Act 1972, to ensure that the enforcement provisions apply to support Council Regulation (EU) 2017/1770.

5. Extent and Territorial Application

- 5.1 These Regulations extend to the whole of the United Kingdom.
- 5.2 The territorial application of these Regulations is all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 In June 2015 Mali's government and coalitions of armed groups signed a peace deal to end years of fighting in the north of the country. However, recent activity by insurgents has led to concerns that the peace agreement could fall apart, and in August 2017 the Government of Mali informed the UN Security Council that repeated violations of a ceasefire since the beginning of June 2017 were threatening to derail the peace deal.
- 7.2 On 5 September 2017, the UN Security Council adopted Resolution 2374 (2017) which established a sanctions regime for the Republic of Mali. Resolution 2374 (2017) seeks to impose a travel ban and asset freeze on the funds, financial assets and economic resources of persons or entities designated by the Sanctions Committee established under paragraph 9 of Resolution 2374 (2017).
- 7.3 UN Security Council Resolution 2374 (2017) has been transposed through EU Council Regulation 2017/1770 which will take effect from 30th September 2017. Article 13 requires Member States to lay down rules on penalties for infringements of the Council Regulation and notify these to the Commission without delay. This Statutory Instrument contains enforcement provisions relating to the financial sanctions imposed by the Council Regulation 2017/1770.
- 7.4 This Statutory Instrument provides for penalties for breach of the asset freezing measures contained in the Council Regulation. HM Treasury considers that such penalties should be criminal, in line with those in place for breaches of other EU sanctions regimes. Criminal penalties are appropriate to enforce sanctions regimes because financial sanctions are aimed at threats to domestic and international peace and security and the abuse of human rights.

8. Consultation outcome

- 8.1 No consultation has been carried out in relation to these Regulations, which provide for enforcement of financial sanctions that have been themselves imposed by the Council Regulation.

9. Guidance

- 9.1 Guidance on the asset freezing and other financial sanctions measures in relation to Mali is available on HM Treasury's website: (<https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>).
- 9.2 The Office of Financial Sanctions Implementation, within HM Treasury, operate a free subscription email service alerting subscribers to changes to the asset freezing regime, and to other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing and financial sanctions regimes.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is negligible, because these regulations do not impose substantive requirements themselves.
- 10.2 The impact on the public sector is also negligible.
- 10.3 An Impact Assessment has not been prepared for these regulations, because any impact results from the Council Regulation rather than these regulations which only relate to enforcement powers.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), HM Treasury works with the financial sector on the requirements for complying with the asset freezing and financial sanctions measures set out in the Council Regulation. HM Treasury have provided detailed guidance to assist business in complying with these measures.

12. Monitoring and review

- 12.1 It is not appropriate to make provision for periodic review as contemplated in sections.28-32 of the Small Business Enterprise and Employment Act 2015 because these Regulations do not regulate business.
- 12.2 The UN and EU monitor and review their financial sanctions measures, which the Treasury is under an obligation to implement. The Treasury will monitor the effect of implementing UN listings in the UK without delay to ensure that the implementation and notification processes work as they should.

13. Contact

- 13.1 The Office of Financial Sanctions (OFSI@HMTreasury.gsi.gov.uk) can answer any queries regarding the instrument.