

EXPLANATORY MEMORANDUM TO
THE REPUBLIC OF MALDIVES (ASSET-FREEZING) REGULATIONS 2018
2018 No. 861

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 This instrument puts in place the UK's domestic enforcement regime for a new sanctions regime. Restrictive measures, including financial sanctions provisions, will be adopted in Council Regulation (EU) 2018/1001 with effect from 16th July 2018.

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 in UK statutory instruments 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 21st December 2016 in response to those comments explaining why HM Treasury intends to continue with its current approach in relation to financial sanctions Regulations. This instrument adopts the same approach to the issue as that taken in other similar financial sanctions Regulations.
- 3.2 Annex I to the Council Regulation does not currently contain any designated persons to whom the new financial sanctions provisions apply. The EU will designate persons by including them in Annex I in due course. In that situation, if these Regulations were not in force, persons within the UK who breach the measures would not face enforcement consequences for such breaches. Given that financial sanctions are a matter of international and domestic security, and that the UK has obligations under EU law to put them in place and enforce them, it is necessary to ensure that the sanctions can be enforced against any designated persons who are added to Annex I after these Regulations are made.

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. They put in place the enforcement provisions which apply to the financial sanctions provisions in the Council Regulation.

5. Extent and Territorial Application

- 5.1 These Regulations extend to the whole of the United Kingdom.
- 5.2 These Regulations apply to the whole of the United Kingdom, and outside the United Kingdom to any UK national or any body incorporated in 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 of compatibility is required.

7. Policy background

What is being done and why

- 7.1 The EU has agreed to adopt new restrictive measures in view of the situation of anti-democratic rule in the Republic of Maldives. These include freezing of funds and economic resources of certain persons, entities or bodies responsible for undermining the rule of law or obstructing an inclusive political solution in the Maldives, as well as persons and entities responsible for serious human rights violations or abuses in the Maldives. The regulation will come into force on the same day that it is laid, which should be on 17th July. Although there will be no listings immediately, names may be listed following the September Presidential elections, subject to how the elections are conducted.
- 7.2 There is ongoing concern over the situation of anti-democratic rule in the Republic of Maldives. The UK led a statement by over 40 countries at the UN Human Rights Council in March 2018 condemning the situation. EU Council Conclusions on 26th February 2018 agreed that the EU would consider imposing targeted measures against Maldives if the situation did not improve.
- 7.3 The UK is obliged to put enforcement provisions in place for breaches of the financial sanctions contained in the Council Regulation.

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 imposed by the Council Regulation.

9. Guidance

- 9.1 Guidance on asset freezing and other financial sanctions measures is available on HM Treasury's website (<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>).
- 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 EU monitors and reviews its financial sanctions measures, which HM Treasury is under an obligation to implement.

13. Contact

- 13.1 Please contact Sanctions.Legislation@HMTreasury.gov.uk for any queries regarding the instrument.