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STATUTORY INSTRUMENTS

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**2019 No. 577**

**The Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019**

**PART 2**

**Designation of persons**

**Power to designate persons**

5. The Treasury may designate persons<sup>(1)</sup> by name for the purposes of regulations 11 to 15 (asset-freeze etc.).

**Designation criteria**

6.—(1) The Treasury may not designate a person under regulation 5 unless the Treasury—

- (a) have reasonable grounds to suspect that that person is an involved person, and
- (b) consider that the designation of that person is appropriate, having regard to—
  - (i) the purposes stated in regulation 4, and
  - (ii) the likely significant effects of the designation on that person (as they appear to the Treasury to be on the basis of the information that the Treasury have).

(2) In this regulation, an “involved person” means a person who—

- (a) is or has been involved in terrorist activity,
- (b) is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved,
- (c) is acting on behalf of or at the direction of a person who is or has been so involved, or
- (d) is a member of, or associated with, a person who is or has been so involved.

(3) Any reference in this regulation to being involved in terrorist activity includes being so involved in whatever way and wherever any actions constituting the involvement take place and in particular includes—

- (a) being responsible for, engaging in or providing support for, the commission, preparation or instigation of acts of terrorism;
- (b) providing financial services, or making available funds or economic resources, for the purposes of terrorism;
- (c) facilitating, promoting or encouraging terrorism;
- (d) providing or receiving training for the purposes of terrorism;
- (e) travelling or attempting to travel from or into the relevant territory for the purposes of terrorism;
- (f) carrying out recruitment activities for a person involved in terrorism;

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<sup>(1)</sup> Section 9(5) of the Act defines person as including (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons.

- (g) being responsible for, engaging in, being complicit in, providing support for, or promoting, the abduction, enslavement, forced marriage or rape of, or sexual violence against, persons outside the relevant territory on behalf of, or in the name of, a person who is involved in terrorism;
  - (h) supporting or assisting any person who is known or believed by the person concerned to be involved in any activity mentioned in sub-paragraphs (a) to (g); or
  - (i) being involved in assisting the contravention or circumvention of any relevant provision.
- (4) In this regulation, “carrying out recruitment activities” means—
- (a) soliciting another person to—
    - (i) become a member of a person, other than an individual, involved in terrorism, or
    - (ii) participate in any act by, in conjunction with, in the name of, on behalf of or in support of a person involved in terrorism;
  - (b) soliciting or otherwise procuring funds for the purpose of financing the travel of a person solicited as mentioned in sub-paragraph (a);
  - (c) organising, providing support for or otherwise facilitating the travel of a person solicited as mentioned in sub-paragraph (a).
- (5) In this regulation—
- being “associated with” a person includes pledging allegiance in whatever way to that person;
- “promoting or encouraging” terrorism includes a reference to a person who promotes or encourages terrorism within the meaning of section 3 of the Terrorism Act 2000(2);
- “relevant provision” means—
- (a) any provision of Part 3;
  - (b) any provision of the law of a country other than the United Kingdom made for purposes corresponding to a purpose of any provision of Part 3;
- “relevant territory” means the United Kingdom and the territory of the Member States of the European Union.
- (6) Nothing in any sub-paragraph of paragraph (3) is to be taken to limit the meaning of any of the other sub-paragraphs of that paragraph.

### **Meaning of “owned or controlled directly or indirectly”**

7.—(1) A person who is not an individual (“C”) is “owned or controlled directly or indirectly” by another person (“P”) if either of the following two conditions is met (or both are met).

- (2) The first condition is that P—
  - (a) holds directly or indirectly more than 50% of the shares in C,
  - (b) holds directly or indirectly more than 50% of the voting rights in C, or
  - (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.
- (3) The Schedule contains provision applying for the purpose of interpreting paragraph (2).
- (4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and, whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P’s wishes.

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(2) 2000 c.11. Section 3 was amended by the Terrorism Act 2006 (c.11).

## **Notification and publicity where designation power used**

8.—(1) Paragraph (2) applies where the Treasury—

- (a) have made a designation under regulation 5, or
- (b) have by virtue of section 22 of the Act varied or revoked a designation made under that regulation.

(2) The Treasury—

- (a) must without delay take such steps as are reasonably practicable to inform the designated person of the designation, variation or revocation, and
- (b) must take steps to publicise the designation, variation or revocation.

(3) The information given under paragraph (2)(a) where a designation is made must include a statement of reasons.

(4) In this regulation, a “statement of reasons”, in relation to a designation, means a brief statement of the matters that the Treasury know, or have reasonable grounds to suspect, in relation to the designated person which have led the Treasury to make the designation.

(5) Matters that would otherwise be required by paragraph (4) to be included in a statement of reasons may be excluded from it where the Treasury consider that they should be excluded—

- (a) in the interests of national security or international relations,
- (b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (c) in the interests of justice.

(6) The steps taken under paragraph (2)(b) must—

- (a) unless one or more of the restricted publicity conditions is met, be steps to publicise generally—
  - (i) the designation, variation or revocation, and
  - (ii) in the case of a designation, the statement of reasons;
- (b) if one or more of those conditions is met, be steps to inform only such persons as the Treasury consider appropriate of the designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons.

(7) The “restricted publicity conditions” are as follows—

- (a) the designation is of a person believed by the Treasury to be an individual under the age of 18;
- (b) the Treasury consider that disclosure of the designation, variation or revocation should be restricted—
  - (i) in the interests of national security or international relations,
  - (ii) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
  - (iii) in the interests of justice.

(8) Paragraph (9) applies if—

- (a) when a designation is made, one or more of the restricted publicity conditions is met, but
- (b) at any time when the designation has effect, it becomes the case that none of the restricted publicity conditions is met.

(9) The Treasury must—

- (a) take such steps as are reasonably practicable to inform the designated person that none of the restricted publicity conditions is now met, and
- (b) take steps to publicise generally the designation and the statement of reasons relating to it.

### **Confidential information in certain cases where designation power used**

9.—(1) Where the Treasury in accordance with regulation 8(6)(b) inform only certain persons of a designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons, the Treasury may specify that any of that information is to be treated as confidential.

(2) A person (“P”) who—

- (a) is provided with information that is to be treated as confidential in accordance with paragraph (1), or
- (b) obtains such information,

must not, subject to paragraph (3), disclose it if P knows, or has reasonable cause to suspect, that the information is to be treated as confidential.

(3) The prohibition in paragraph (2) does not apply to any disclosure made by P with lawful authority.

(4) For this purpose information is disclosed with lawful authority only if and to the extent that—

- (a) the disclosure is by, or is authorised by, the Treasury,
- (b) the disclosure is by or with the consent of the person who is or was the subject of the designation,
- (c) the disclosure is necessary to give effect to a requirement imposed under or by virtue of these Regulations or any other enactment, or
- (d) the disclosure is required, under rules of court, tribunal rules or a court or tribunal order, for the purposes of legal proceedings of any description.

(5) This regulation does not prevent the disclosure of information that is already, or has previously been, available to the public from other sources.

(6) A person who contravenes the prohibition in paragraph (2) commits an offence.

(7) The High Court (in Scotland, the Court of Session) may, on the application of—

- (a) the person who is the subject of the information, or
- (b) the Treasury,

grant an injunction (in Scotland, an interdict) to prevent a breach of the prohibition in paragraph (2).

(8) In paragraph (4)(c), “enactment” has the meaning given by section 54(6) of the Act.