

## **THE ZIMBABWE (SANCTIONS) (EU EXIT) REGULATIONS 2019**

### **REPORT UNDER SECTION 2(4) OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018**

#### **Introduction**

1. This is a report under section 2(4) of the Sanctions and Anti-Money Laundering Act 2018 (“the Act”) in relation to the Zimbabwe (Sanctions) (EU Exit) Regulations 2019. Section 2(4) requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 considers that the purposes of the regulations meet one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Act;<sup>i</sup> why the Minister considers that there are good reasons to pursue that purpose; and why the Minister considers that the imposition of sanctions is a reasonable course of action for that purpose.
2. Sanctions will continue to contribute to the UK’s efforts to “defend the rules-based international order”. The UK will continue to be a global leader on sanctions, based on the smart, targeted use of sanctions, as part of wider political and diplomatic strategies. The UK will enhance its leadership role in developing robust evidence to support sanctions regimes and designations – for national and multilateral sanctions. At the international level, the UK will continue to seek multilateral cooperation on sanctions in response to shared threats, given that a collective approach to sanctions achieves the greatest impact.
3. The Act allows the UK to take a range of actions against those suspected of gross human rights violations, or otherwise promote compliance with international humanitarian rights law or respect for human rights.
4. The EU has been imposing sanctions on Zimbabwe since 2002 due to the serious human rights violations which occurred in the run up to the presidential elections. They have been adjusted over the years in response to the changing political landscape, particularly in 2008, when the EU strengthened restrictive measures in response to violence committed by Zimbabwean authorities during the 2008 Presidential elections. The 2008 and 2013 election cycles were notable periods of intimidation, discrimination harassment, violent policing, arbitrary arrests and assault. The EU decided to suspend travel bans and asset freezes applying to a majority of individuals, and entities in 2013 with the adoption of the new constitution. The current EU sanctions regulations were updated in February 2019, and consists of an arms embargo, an asset freeze on one entity, and an asset freeze and travel bans applied to two individuals. The current EU sanctions regulations consist of trade, financial and immigration sanctions.
5. The UK played a significant role in pressing for the EU’s imposition of sanctions on Zimbabwe and in proposing designations under the sanctions regime. Bringing these existing EU sanctions into UK law is consistent with UK policy on Zimbabwe. The Zimbabwe (Sanctions) (EU Exit) Regulations are intended to deliver substantially the same policy effects as those existing EU sanctions.

## **Purposes and reasons for pursuing the purposes**

6. The Regulations impose sanctions with the aim of improving the situation in Zimbabwe with regards to democracy, human rights and the rule of law. In particular, they confer a power on the Secretary of State to designate persons where the Secretary of State has reasonable grounds to suspect that that person is an involved person, and considers that the designation of that person is appropriate, having regard to the purposes stated in regulation 4, and the likely significant effects of the designation on that person. In these Regulations an ‘involved person’ means a person who:
  - (a) is, or has been—
    - (i) involved in the commission of a serious human rights violation or abuse in Zimbabwe,
    - (ii) involved in the repression of civil society and democratic opposition in Zimbabwe, or
    - (iii) involved in other actions, policies or activities which undermine democracy or the rule of law in Zimbabwe,
  - (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.
7. The sanctions measures in these Regulations that those designated by the Secretary of State may be subject to consist of an asset freeze and travel ban. The purposes of the regulations contained in this instrument that are made under section 1 of the Act are to encourage the Government of Zimbabwe to—
  - i. respect democratic principles and institutions and the rule of law in Zimbabwe;
  - ii. refrain from actions, policies or activities which repress civil society in Zimbabwe;
  - iii. comply with international human rights law and to respect human rights, including in particular, to—
    1. respect the right to life of persons in Zimbabwe;
    2. respect the right of persons not to be subjected to torture or cruel, inhuman or degrading treatment or punishment in Zimbabwe, including inhuman and degrading conditions in prisons;
    3. afford journalists, human rights defenders and other persons in Zimbabwe the right to freedom of expression and peaceful assembly;
    4. respect the right to liberty and security, including refraining from the arbitrary arrest and detention of persons in Zimbabwe;
    5. afford persons in Zimbabwe charged with criminal offences the right to a fair trial;
    6. respect property rights in Zimbabwe;
    7. secure the human rights of persons in Zimbabwe without discrimination, in particular in relation to discrimination on the basis of a person’s sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

8. Carrying out these purposes meets one or more of the conditions set out in section 1(2) of the Act. In particular, carrying out these purposes would fall within sub paragraph (f), in that it would promote compliance with international human rights law and respect for human rights, and sub paragraph (i) in that it aims promote respect for democracy, the rules of law and good governance.
9. There are good reasons for pursuing these purposes: the two previous election years, in 2008 and 2013, were historically notable periods in which serious human rights violations occurred during the election cycle. The human rights situation remained concerning in 2018, with the human rights monitoring group, Zimbabwe Peace Project (ZPP) recording 2,354 human rights violations from January to December 2018, including intimidation, discrimination, harassment, assault, violent policing, arbitrary arrests and torture. Of particular concern was the disproportionate response of the security services to the post 2018-election protests, which left at least six dead and many others injured. Political violence and police repression continued in January 2019 when security forces again used disproportionate force against protesters, with ZPP reporting at least 17 deaths and 17 cases of rape by the security services. In addition, the state used judicial harassment and arbitrary arrest in response to the protests – Zimbabwe Lawyers for Human Rights have recorded over 1000 legal cases linked to the protests, many of whom were denied bail for extended periods before being acquitted. To date at least seven opposition MPs, activists and human rights defenders have been charged with subversion in relation to the protests. These continued incidents raise serious concerns on the government's commitment to genuine reform.
10. The UK continues to lead international efforts to encourage government of Zimbabwe to improve and reform repressive legislation, particularly by working alongside local civil society groups. The sanctions regime is part of a broader effort to pressure the Government of Zimbabwe to take steps to protect the rights of their citizens and ensure that security, the rule of law and accountability prevail in Zimbabwe.

#### **Why sanctions are a reasonable course of action**

11. The imposition of prohibitions and requirements of the kind imposed by these Regulations is a reasonable course of action for the purpose of encouraging the Government of Zimbabwe and others who may be involved in political or human rights abuses to respect democratic principles and institutions and the rule of law in Zimbabwe; refrain from actions, policies or activities which repress civil society in Zimbabwe; and comply with international human rights law and to respect human rights.
12. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. The UK believes sanctions can be an effective and reasonable foreign policy tool if they are one part of a broader foreign policy strategy for a country or thematic issue, and are appropriate to the purposes they are intending to achieve.
13. The ongoing human rights situation in Zimbabwe means that putting sanctions in place is a reasonable measure to take. They send a powerful signal intended to drive behavioural change by the Government of Zimbabwe and others who may be involved in political or human rights abuses. The asset freezes and travel bans prevent designated persons from making the UK a

location for their assets and demonstrate more broadly our commitment to reforms in Zimbabwe and aim to deter others from these behaviours.

14. There are three principal kinds of prohibition in the Regulations: those relating to financial sanctions, those relating to immigration sanctions, and those relating to trade sanctions.

a. Financial and immigration sanctions. These restrictions consist of an asset freeze (including a restriction on providing funds and economic resources) and a travel ban. These restrictions can only be imposed upon specified individuals and entities who meet the criteria set out in the Regulations and above at paragraph 6. This is in order to ensure that the sanctions are clearly targeted at those who abuse human rights, and therefore fulfil the stated purpose of the sanctions. The intention is to send a strong message of disapproval for human rights violations. Targeting the sanctions at those involved in the commission of human rights abuses, the repression of the opposition and activities that undermine the rule of law and good governance in Zimbabwe is intended to be a proportionate way to help prevent further human rights violations, and to put pressure on the Government of Zimbabwe to refrain from future human rights violations and abuses. The Regulations allow for there to be exceptions to the travel ban and also provides for the financial sanctions to be subject to certain exceptions and a licensing framework. The exceptions and licensing provisions support the reasonableness of imposing these sanctions measures on designated persons as they can be used, where appropriate, to mitigate any possible negative or counter-productive impacts.

b. Trade sanctions. The Regulations contain restrictions on the trade of restricted goods and technology, namely military goods or technology or any other goods or technology that may be used to repress the civilian population in Zimbabwe. The Regulations also impose restrictions on the provision of certain services, such technical assistance, financial services or brokering services, relating to those goods or technology. Furthermore the Regulations prohibit the provision of military-related services to the Zimbabwe Defence Forces, or to any person acting on its behalf or under its direction. The effect of these sanctions is to directly constrain potential human rights violations and actions which repress civil society in Zimbabwe, therefore fulfilling the stated purposes of this regime. The Regulations provide for the trade sanctions to be subject to a licensing framework that will be overseen by the Department for International Trade. The power to grant licences under this regime supports the reasonableness of imposing these sanctions measures.

15. These sanctions are not an end in themselves. They are one element of a broader strategy to achieve the UK's foreign policy goals in Zimbabwe. The UK wants to see sincere reform in Zimbabwe, with the need for the Government of Zimbabwe to uphold the rule of law, human rights and promote free and fair elections, which are enshrined in the 2013 Constitution. HMG would also like to see genuine economic reforms necessary to address Zimbabwe's economic challenges, and to make progress towards the resolution of its external debts. Alongside sanctions, HMG provides extensive financial and technical assistance to civil society organizations, and working alongside our international partners, to promote respect for human rights. Additionally, HMG will work with our international partners, to play a role in support of Zimbabwe's economic recovery, on the basis of genuine political and economic reforms.

16. The policy intention is to keep the sanctions on Zimbabwe in place until HMG is assured that the human rights situation in Zimbabwe has improved or has demonstrated steady and consistent improvement over a sustained period of time. The sanctions regime will remain until there is evidence that the Government of Zimbabwe is taking meaningful measures to promote the respect for human rights, and uphold democratic principles. This position may be reached by evidence of concrete steps having been taken that show an improvement in the areas of concern outlined in the purposes of these Regulations. The UK Government will continue to coordinate with international partners, including on the future of the sanctions regime.
17. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information, the reporting of information by relevant firms, and the holding of records. These kinds of prohibitions and requirements ensure that certain information is appropriately held by those involved with the operation of the sanctions regime, and that certain information is provided to authorities, and ensure that certain sensitive information is treated securely. These kinds of prohibitions and requirements enable the government to properly operate and enforce the sanctions regime, and therefore their imposition is also considered a reasonable course of action for the purposes of the Regulations.

### **Conclusions**

18. The purposes of these Regulations are to encourage the Government of Zimbabwe and others who may be involved in political or human rights abuses, to respect democratic principles and institutions and the rule of law in Zimbabwe; refrain from actions, policies or activities which repress civil society in Zimbabwe; and comply with international human rights law and to respect human rights. For the reasons set out in this report, carrying out those purposes meets one of the conditions in section 1(2) of the Act. As set out in this report, there are good reasons for pursuing those purposes, and the imposition of the kinds of prohibitions and requirements imposed by these Regulations for those purposes is a reasonable course of action for those purposes.

**The Rt Hon Sir Alan Duncan MP KCMG**

**Minister of State for Europe and the Americas, Foreign and Commonwealth Office, on behalf of  
the Secretary of State for Foreign and Commonwealth Affairs**

---

<sup>i</sup> Section 1(2) states:

*“A purpose is within this subsection if the appropriate Minister making the regulations considers that carrying out that purpose would –*

- a) further the prevention of terrorism, in the United Kingdom or elsewhere,*
- b) be in the interests of national security,*
- c) be in the interests of international peace and security,*
- d) further a foreign policy objective of the government of the United Kingdom,*
- e) promote the resolution of armed conflicts or the protection of civilians in conflict zones,*
- f) provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote –*
  - (i) compliance with international human rights law, or*
  - (ii) respect for human rights,*
- g) promote compliance with international humanitarian law,*
- h) contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or*
- i) promote respect for democracy, the rules of law and good governance.”*