
STATUTORY INSTRUMENTS

2019 No. 855

The Russia (Sanctions) (EU Exit) Regulations 2019

PART 7

Exceptions and licences

Asset-freeze etc.: exceptions from prohibitions

58.—(1) The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person (“P”) transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—

- (a) is held by P, and
- (b) is not held jointly with the designated person.

(2) In paragraph (1) “independent person” means a person who—

- (a) is not the designated person, and
- (b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

(3) The prohibitions in regulations 11 to 13 (asset-freeze in relation to, and making funds available to or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account with interest or other earnings due on the account.

(4) The prohibitions in regulations 12 and 13 (making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account where it receives funds transferred to that institution for crediting to that account.

(5) The prohibitions in regulations 12 and 13 are not contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.

(6) The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person (“P”) by a transfer of funds from account A to account B, where—

- (a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000(1),
- (b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000(2), and
- (c) accounts A and B are held or controlled (directly or indirectly) by P.

(7) In this regulation—

“designated person” has the same meaning as it has in Chapter 1 Part 3 (Finance);

(1) 2000 c.8. Section 142D was inserted by section 4(1) of the Financial Services (Banking Reform) Act 2013 (c.33).
(2) Section 142A was inserted by section 4(1) of the Financial Services (Banking Reform) Act 2013 (c.33).

“frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person;

“relevant institution” means a person that has permission under Part 4A of the Financial Services and Markets Act 2000(3) (permission to carry on regulated activity).

(8) The definition of “relevant institution” in paragraph (7) is to be read with section 22 of the Financial Services and Markets Act 2000(4), any relevant order under that section(5) and Schedule 2 to that Act(6).

Exceptions relating to loans and credit arrangements

59.—(1) The prohibitions in regulation 17 (loans and credit arrangements) are not contravened by the grant of—

- (a) a relevant loan that has a specific and documented objective of making funds available for non-restricted trade;
- (b) a relevant loan that has a specific and documented objective of making emergency funds available to meet applicable solvency or liquidity criteria for a relevant subsidiary;
- (c) a relevant loan consisting of a drawdown or disbursement made under an arrangement entered into before 15th September 2014, where the conditions in paragraph (2) are met.

(2) The conditions referred to in paragraph (1)(c) are that—

- (a) all the terms and conditions of such drawdowns or disbursements—
 - (i) were agreed before 15th September 2014;
 - (ii) have not been modified on or after that date; and
- (b) a contractual maturity date has been fixed for the repayment in full of all funds made available and for the cancellation of all the rights and obligations under the arrangement.

(3) In this regulation—

“non-restricted trade” means any trade that is not prohibited under Part 5;

“relevant loan” has the meaning given to it in regulation 17;

“relevant subsidiary” means a person, other than an individual, which is—

- (a) incorporated or constituted under the law of any part of the United Kingdom, and
- (b) owned (within the meaning of regulation 16(7)) by a person mentioned in paragraphs 1 to 5 of Schedule 2.

Exceptions relating to investments in relation to Crimea

60.—(1) The prohibitions in regulation 18 (investments in relation to Crimea) are not contravened by any act done by a person (“P”) in satisfaction of an obligation of P arising under a contract concluded before 20 December 2014, or an ancillary contract necessary for the satisfaction of such a contract, provided that P has notified the Treasury no later than the day five working days before the day on which the act is carried out.

(2) The prohibitions in regulation 18 are not contravened by activities carried on by a person with entities outside Crimea where the related investment is not destined for an entity in Crimea.

(3) Part 4A was inserted by the Financial Services Act 2012 (c.21), section 11(2) and amended by S.I. 2018/135.

(4) Section 22 was amended by; the Financial Guidance and Claims Act 2018 (c.10), Part 2, s.27(4); the Financial Services Act 2012, section 7(1); and S.I. 2018/135.

(5) S.I. 2001/544, as amended by S.I. 2017/500.

(6) Schedule 2 was amended by; the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15, Schedule 2, para. 1; the Regulation of Financial Services (Land Transactions) Act 2003 (c.24), section 1; the Financial Services Act 2012, section 7(2) to (5) and section 8; S.I. 2013/1881; and it is prospectively amended by S.I. 2018/135.

Trade: exception for emergencies in certain cases

61.—(1) The prohibitions in regulations 40 to 45 (prohibitions relating to energy-related goods etc.) and regulations 48 to 54 (prohibitions relating to infrastructure in Crimea etc.) are not contravened by a person (“P”) where the P provides justification to the Secretary of State within the relevant period that the act is an act dealing with an emergency.

(2) In this regulation—

“an act dealing with an emergency” means an act assisting with the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health or safety, infrastructure or the environment;

“relevant period”, in relation to an act, means the period of 5 working days beginning with the day on which the act is done.

Exception relating to trade restrictions in relation to Crimea

62.—(1) A prohibition in regulation 47 (imports from Crimea) or regulation 52(3)(a) (financial services and funds in relation to imports from Crimea) is not contravened by any action in relation to goods which—

(a) originate in Crimea, and

(b) are the subject of a certificate of origin.

(2) In this regulation a “certificate of origin” means a document issued by the Government of Ukraine or a person acting on behalf of the Government of Ukraine confirming that the goods originate in Ukraine.

Exception for acts done for purposes of national security or prevention of serious crime

63.—(1) Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2)(confidentiality) or any prohibition in Part 3 (Finance) or 5 (Trade), or under or by virtue of Part 6 (Ships) that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of—

(a) national security, or

(b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 8 (Information and records) or Part 10 (Maritime enforcement), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—

(a) national security, or

(b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(3) In this regulation “responsible officer” means a person in the service of the Crown or holding office under the Crown, acting in the course of that person’s duty.

Treasury licences

64.—(1) The prohibitions in regulations 11 to 15 (asset-freeze etc.) and 18 (investments in relation to Crimea) do not apply to anything done under the authority of a licence issued by the Treasury under this paragraph.

(2) The Treasury may issue a licence which authorises acts by a particular person only—

- (a) in the case of acts which would otherwise be prohibited by regulations 11 to 15, where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 1 of Schedule 5, and
- (b) in the case of acts which would otherwise be prohibited by regulation 18, where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 2 of Schedule 5.

Trade licences

65. The prohibitions in Chapters 2 to 6 of Part 5 (Trade) do not apply to anything done under the authority of a licence issued by the Secretary of State under this regulation.

Licences: general provisions

- 66.**—(1) This regulation applies in relation to Treasury licences and trade licences.
- (2) A licence must specify the acts authorised by it.
 - (3) A licence may be general or may authorise acts by a particular person or persons of a particular description.
 - (4) A licence may —
 - (a) contain conditions;
 - (b) be of indefinite duration or a defined duration.
 - (5) A person who issues a licence may vary, revoke or suspend it at any time.
 - (6) A person who issues, varies, revokes or suspends a licence which authorises acts by a particular person must give written notice to that person of the issue, variation, revocation or suspension of the licence.
 - (7) A person who issues, varies, revokes or suspends a general licence or a licence which authorises acts by persons of a particular description must take such steps as that person considers appropriate to publicise the issue, variation, revocation or suspension of the licence.

Finance: licensing offences

- 67.**—(1) A person (“P”) commits an offence if P knowingly or recklessly—
 - (a) provides information that is false in a material respect, or
 - (b) provides or produces a document that is not what it purports to be,for the purpose of obtaining a Treasury licence (whether for P or anyone else).
- (2) A person who purports to act under the authority of a Treasury licence but who fails to comply with any condition of the licence commits an offence.

Trade: licensing offences

- 68.**—(1) A person (“P”) commits an offence if P knowingly or recklessly—
 - (a) provides information that is false in a material respect, or
 - (b) provides or produces a document that is not what it purports to be,for the purpose of obtaining a trade licence (whether for P or anyone else).
- (2) A person who purports to act under the authority of a trade licence but who fails to comply with any condition of the licence commits an offence.

(3) A licence in respect of which an offence under paragraph (1) has been committed is to be treated as void from the time at which it was issued.

Section 8B(1) to (3) of Immigration Act 1971: directions

69.—(1) The Secretary of State may direct that, in relation to any person within regulation 20 whose name is specified, or who is of a specified description, section 8B(1) and (2) of the Immigration Act 1971, or section 8B(3) of that Act, have effect subject to specified exceptions.

(2) A direction under this regulation—

(a) may contain conditions.

(b) must be of a defined duration (and that duration may be expressed in any way, including, for example, being expressed in a way such that the direction ceases to have effect on, or within a specified period after, the occurrence of a specified event).

(3) The Secretary of State may vary, revoke or suspend a direction under this regulation at any time.

(4) On the issue, variation, revocation or suspension of a direction under this regulation, the Secretary of State may take such steps as the Secretary of State considers appropriate to publicise the issue, variation, revocation or suspension of the direction.

(5) In this regulation “specified” means specified in a direction under this regulation.