STATUTORY INSTRUMENTS

2020 No. 707

EXITING THE EUROPEAN UNION SANCTIONS

The Iraq (Sanctions) (EU Exit) Regulations 2020

Made - - - -	*7th July 2020*
Laid before Parliament	*9th July 2020*
Coming into force in accordance with regulation 1(2)	

The Secretary of State [M1], in exercise of the powers conferred by sections 1(1)(a) and (3)(a), 3(1)(a) and (d)(i), 5, 9(2)(b), 13, 15(2)(a), (2)(b), (3) and (6), 16, 17, 19, 20, 21(1), 54(1) and (2), 56(1) and 62(4) to (6) of, and paragraphs 2(b), 4(b), 5(a)(ii) and (b), 6(a)(ii) and (b), 13(h), (k), (l), (m) and (n), 16(a) and (b), 17(a), 20, 21 and 27 of Schedule 1 to, the Sanctions and Anti-Money Laundering Act 2018 [M2], and having decided, upon consideration of the matters set out in section 56(1) of that Act, that it is appropriate to do so, makes the following Regulations:

Modifications etc. (not altering text)

C1 Regulations extended (with modifications) to specified British overseas territories (31.12.2020) by The Iraq (Sanctions) (Overseas Territories) Order 2020 (S.I. 2020/1260), art. 2, Sch. 1, **Sch. 2**

Marginal Citations

M1 The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 is conferred on an "appropriate Minister". Section 1(9)(a) of the Act defines an "appropriate Minister" as including the Secretary of State.

M2 2018 c.13.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Iraq (Sanctions) (EU Exit) Regulations 2020.

(2) These Regulations come into force in accordance with regulations made by the Secretary of State under section 56 of the Act.

Commencement Information

I1 Reg. 1 not in force at made date, see **reg. 1(2)**

I2 Reg. 1 in force at 14.12.2020 by S.I. 2020/1514, **reg. 14(1)**

Interpretation

2. In these Regulations—

"the Act" means the Sanctions and Anti-Money Laundering Act 2018;

"arrangement" includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable (but see paragraph 12 of Schedule 1 for the meaning of that term in that Schedule);

"CEMA" means the Customs and Excise Management Act 1979 [M3];

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"the Committee" means the Committee of the Security Council established in accordance with paragraph 1 of resolution 1518;

"conduct" includes acts and omissions;

"document" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;

"the EU Iraq Regulation" means Council Regulation (EC) No 1210/2003 of 7 July 2003, concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96[M4], as it has effect in EU law;

"resolution 661" means resolution 661 (1990) adopted by the Security Council on 6 August 1990;

"resolution 1483" means resolution 1483 (2003) adopted by the Security Council on 22 May 2003;

"resolution 1518" means resolution 1518 (2003) adopted by the Security Council on 24 November 2003;

"resolution 1956" means resolution 1956 (2010) adopted by the Security Council on 15 December 2010;

"trade licence" means a licence under regulation 36;

"Treasury licence" means a licence under regulation 35(1);

"United Kingdom person" has the same meaning as in section 21 of the Act.

Commencement Information

I3 Reg. 2 not in force at made date, see **reg. 1(2)**

I4 Reg. 2 in force at 14.12.2020 by S.I. 2020/1514, **reg. 14(1)**

Marginal Citations

M3 1979 c.2. Amendments have been made to this Act and are cited, where relevant, in respect of the applicable regulations.

M4 OJ No. L 169, 8.7.2003, p.6.

Application of prohibitions and requirements outside the United Kingdom

3.—(1) A United Kingdom person may contravene a relevant prohibition by conduct wholly or partly outside the United Kingdom.

(2) Any person may contravene a relevant prohibition by conduct in the territorial sea.

(3) In this regulation, a "relevant prohibition" means any prohibition imposed by—

(a) Part 3 (Finance),

(b) Part 4 (Trade), or

(c) a condition of a Treasury licence or a trade licence.

(4) A United Kingdom person may comply, or fail to comply, with a relevant requirement by conduct wholly or partly outside the United Kingdom.

(5) Any person may comply, or fail to comply, with a relevant requirement by conduct in the territorial sea.

(6) In this regulation, a "relevant requirement" means any requirement imposed—

(a) by or under Part 6 (Information and records), or by reason of a request made under a power conferred by that Part, or

(b) by a condition of a Treasury licence or a trade licence.

(7) Nothing in this regulation is to be taken to prevent a relevant prohibition or a relevant requirement from applying to conduct (by any person) in the United Kingdom.

Commencement Information

I5 Reg. 3 not in force at made date, see **reg. 1(2)**

I6 Reg. 3 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Purpose

4.—(1) The purpose of the regulations contained in this instrument that are made under section 1 of the Act is compliance with the relevant UN obligations.

(2) In this regulation, "the relevant UN obligations" means—

(a) the obligation that the United Kingdom has by virtue of paragraph 23(a) of resolution 1483 (partial asset-freeze) [M5] to take the measures required by that provision in respect of persons for the time being named for the purposes of that provision by the Security Council or the Committee;

(b) the obligation that the United Kingdom has by virtue of paragraph 23(b) of resolution 1483 (asset-freeze) to take the measures required by that provision in respect of persons for the time being named for the purposes of that provision by the Security Council or the Committee;

(c) the obligations that the United Kingdom has by virtue of paragraph 23(b) of resolution 1483 in respect of persons—

(i) acting on behalf of or at the direction of, or

(ii) owned or controlled by,

the persons for the time being named by the Security Council or the Committee for the purposes of paragraph 23(b) of resolution 1483;

(d) the obligations that the United Kingdom has by virtue of paragraph 3 of resolution 661 (arms embargo);

(e) the obligations that the United Kingdom has by virtue of paragraph 7 of resolution 1483 (Iraqi cultural property).

Commencement Information

I7 Reg. 4 not in force at made date, see **reg. 1(2)**

I8 Reg. 4 in force at 14.12.2020 by S.I. 2020/1514, **reg. 14(1)**

Marginal Citations

M5 The obligations in paragraph 23(a) and (b) of resolution 1483 include obligations relating to transfers of certain funds, assets and economic resources to the Development Fund for Iraq. The Development Fund for Iraq was terminated pursuant to paragraph 5 of resolution 1956 and successor arrangements have been put in place.

PART 2

Designation of persons

Designation of persons named by or under UN Security Council Resolutions

5.—(1) Each person [M6] for the time being named by the Security Council or the Committee as a person referred to in paragraph 23(a) of resolution 1483 is a designated person for the purposes of regulation 8 (partial asset-freeze in relation to the former Government of Iraq and its state bodies, corporations or agencies) (whose purposes include compliance with the UN obligations mentioned in regulation 4(2)(a) [M7]).

(2) Each person for the time being named by the Security Council or the Committee as a person referred to in paragraph 23(b) of resolution 1483 is a designated person for the purposes of regulations 9 to 13 (asset-freeze etc. in relation to persons connected with the former Iraqi regime) (whose purposes include compliance with the UN obligations mentioned in regulation 4(2)(b)).

Commencement Information

I9 Reg. 5 not in force at made date, see **reg. 1(2)**

I10 Reg. 5 in force at 14.12.2020 by S.I. 2020/1514, **reg. 14(1)**

Marginal Citations

M6 "Person" is defined by section 9(5) of the Sanctions and Anti-Money Laundering Act 2018 to include (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons.

M7 Section 13 of the Sanctions and Anti-Money Laundering Act 2018 requires that where the purposes of regulations under section 1 include compliance with a UN obligation to take particular measures in relation to UN-named persons (which is the case with the regulations mentioned in regulation 5) the regulations must provide for those persons to be designated persons for the purposes of that provision.

PART 3

Finance

CHAPTER 1

Interpretation

Meaning of "designated person" in Part 3

6.—(1) In regulation 8 (partial asset-freeze in relation to the former Government of Iraq and its state bodies, corporations or agencies) a "designated person" means a person who is designated for the purposes of regulation 8 by reason of regulation 5(1).

(2) In regulations 9 to 13 (asset-freeze etc. in relation to persons connected with the former Iraqi regime) a "designated person" means a person who is designated for the purposes of regulations 9 to 13 by reason of regulation 5(2).

Commencement Information

I11 Reg. 6 not in force at made date, see **reg. 1(2)**

I12 Reg. 6 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

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) Schedule 1 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.

Commencement Information

I13 Reg. 7 not in force at made date, see **reg. 1(2)**

I14 Reg. 7 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

CHAPTER 2

Partial asset-freeze

Partial asset-freeze in relation to the former Government of Iraq and its state bodies, corporations or agencies

8.—(1) A person ("P") must not deal with relevant funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) For the purposes of paragraph (1), "relevant funds or economic resources" are funds or economic resources which were located outside Iraq on 22 May 2003.

(5) For the purposes of paragraph (1), a person "deals with" funds if the person—

(a) uses, alters, moves, transfers or allows access to the funds,

(b) deals with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or

(c) makes any other change, including portfolio management, that would enable use of the funds.

(6) For the purposes of paragraph (1), a person "deals with" economic resources if the person—

(a) exchanges the economic resources for funds, goods or services, or

(b) uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).

(7) The reference in paragraph (1) to funds or economic resources that are "owned, held or controlled" by a person—

(a) includes, in particular, a reference to—

(i) funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources;

(ii) any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person;

(b) does not include funds or economic resources owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

(8) For the avoidance of doubt, the reference in paragraph (1) to a designated person includes P if P is a designated person.

Commencement Information

I15 Reg. 8 not in force at made date, see **reg. 1(2)**

I16 Reg. 8 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

CHAPTER 3

Asset-freeze etc.

Asset-freeze in relation to persons connected with the former Iraqi regime

9.—(1) A person ("P") must not deal with relevant funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) For the purposes of paragraph (1) a person "deals with" funds if the person—

(a) uses, alters, moves, transfers or allows access to the funds,

(b) deals with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or

(c) makes any other change, including portfolio management, that would enable use of the funds.

(5) For the purposes of paragraph (1) a person "deals with" economic resources if the person—

(a) exchanges the economic resources for funds, goods or services, or

(b) uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).

(6) The reference in paragraph (1) to funds or economic resources that are "owned, held or controlled" by a person includes, in particular, a reference to—

(a) funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources;

(b) any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.

(7) For the purposes of paragraph (1), funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

(8) For the avoidance of doubt, the reference in paragraph (1) to a designated person includes P if P is a designated person.

Commencement Information

I17 Reg. 9 not in force at made date, see **reg. 1(2)**

I18 Reg. 9 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Making funds available to persons connected with the former Iraqi regime

10.—(1) A person ("P") must not make funds available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) The reference in paragraph (1) to making funds available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

Commencement Information

I19 Reg. 10 not in force at made date, see **reg. 1(2)**

I20 Reg. 10 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Making funds available for benefit of persons connected with the former Iraqi regime

11.—(1) A person ("P") must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) For the purposes of this regulation—

(a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

(b) "financial benefit" includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

Commencement Information

I21 Reg. 11 not in force at made date, see **reg. 1(2)**

I22 Reg. 11 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Making economic resources available to persons connected with the former Iraqi regime

12.—(1) A person ("P") must not make economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect—

(a) that P is making the economic resources so available, and

(b) that the designated person would be likely to exchange the economic resources for, or use them in exchange for, funds, goods or services.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) The reference in paragraph (1) to making economic resources available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

Commencement Information

I23 Reg. 12 not in force at made date, see **reg. 1(2)**

I24 Reg. 12 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Making economic resources available for benefit of persons connected with the former Iraqi regime

13.—(1) A person ("P") must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) For the purposes of paragraph (1)—

(a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

(b) "financial benefit" includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

Commencement Information

I25 Reg. 13 not in force at made date, see **reg. 1(2)**

I26 Reg. 13 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

CHAPTER 4

Circumvention etc.

Circumventing etc. prohibitions

14.—(1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

(a) to circumvent any of the prohibitions in regulations 8 to 13 (partial asset-freeze and asset-freeze etc.), or

(b) to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes a prohibition in paragraph (1) commits an offence.

Commencement Information

I27 Reg. 14 not in force at made date, see **reg. 1(2)**

I28 Reg. 14 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

PART 4

Trade

CHAPTER 1

Interpretation

Definitions relating to goods and technology prohibited under this Part

15.—(1) In this Part—

"Illegally removed Iraqi cultural property" means Iraqi cultural property or any other item of archaeological, historical, cultural, rare scientific or religious importance illegally removed from any location in Iraq on or after 6 August 1990;

"military goods" means—

(a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008 [M8], other than any thing which is military technology, and

(b) any tangible storage medium on which military technology is recorded or from which it can be derived;

"military technology" means any thing for the time being specified in Schedule 2 to the Export Control Order 2008 which is described as software or technology.

(2) For the purposes of paragraph (1), an item is considered to be "illegally removed" if it has been removed from Iraq in contravention of the law of any country or territory applicable to the removal which was in force at the time of the removal, including, in particular—

(a) the laws of Iraq;

(b) the law of a part of the United Kingdom.

Commencement Information

I29 Reg. 15 not in force at made date, see **reg. 1(2)**

I30 Reg. 15 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M8 S.I. 2008/3231. Schedule 2 was substituted by S.I. 2017/85 and subsequently amended by S.I. 2017/697; S.I. 2018/165; S.I. 2018/939; S.I. 2019/137; and S.I. 2019/989. There are other instruments which amend other parts of the Order, which are not relevant to these Regulations.

Interpretation of other expressions used in this Part

16.—(1) Paragraphs 32 and 36 of Schedule 1 to the Act (trade sanctions) apply for the purpose of interpreting expressions in this Part.

(2) In this Part, any reference to the United Kingdom includes a reference to the territorial sea.

(3) In this Part—

"brokering service" means any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—

(a) the selection or introduction of persons as parties or potential parties to the arrangement,

(b) the negotiation of the arrangement,

(c) the facilitation of anything that enables the arrangement to be entered into, and

(d) the provision of any assistance that in any way promotes or facilitates the arrangement;

"transfer" has the meaning given by paragraph 37 of Schedule 1 to the Act.

(4) For the purposes of this Part, a person is to be regarded as "connected with" Iraq if the person is—

(a) an individual who is, or an association or combination of individuals who are, ordinarily resident in Iraq,

(b) an individual who is, or an association or combination of individuals who are, located in Iraq,

(c) a person, other than an individual, which is incorporated or constituted under the law of Iraq, or

(d) a person, other than an individual, which is domiciled in Iraq.

Commencement Information

I31 Reg. 16 not in force at made date, see **reg. 1(2)**

I32 Reg. 16 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

CHAPTER 2

Military goods and military technology

Export of military goods

17.—(1) The export of military goods to, or for use in, Iraq is prohibited.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

Commencement Information

I33 Reg. 17 not in force at made date, see **reg. 1(2)**

I34 Reg. 17 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Supply and delivery of military goods

18.—(1) A person must not directly or indirectly supply or deliver military goods from a third country to a place in Iraq.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Iraq.

(4) In this regulation, "third country" means a country that is not the United Kingdom, the Isle of Man or Iraq.

Commencement Information

I35 Reg. 18 not in force at made date, see **reg. 1(2)**

I36 Reg. 18 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Making military goods and military technology available

19.—(1) A person must not—

(a) directly or indirectly make military goods or military technology available to a person connected with Iraq;

(b) directly or indirectly make military goods or military technology available for use in Iraq.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

(a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) ("P") to show that P did not know and had no reasonable cause to suspect that the person was connected with Iraq;

(b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for use in Iraq.

Commencement Information

I37 Reg. 19 not in force at made date, see **reg. 1(2)**

I38 Reg. 19 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Transfer of military technology

20.—(1) A person must not—

(a) transfer military technology to a place in Iraq;

(b) transfer military technology to a person connected with Iraq.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

(a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that the transfer was to a place in Iraq;

(b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) ("P") to show that P did not know and had no reasonable cause to suspect that the person was connected with Iraq.

Commencement Information

I39 Reg. 20 not in force at made date, see **reg. 1(2)**

I40 Reg. 20 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Brokering services: non-UK activity relating to military goods and military technology

21.—(1) A person must not directly or indirectly provide brokering services in relation to an arrangement ("arrangement A") whose object or effect is—

(a) the direct or indirect supply or delivery of military goods from a third country to a place in Iraq,

(b) directly or indirectly making military goods available in a third country for direct or indirect supply or delivery—

(i) to a person connected with Iraq, or

(ii) to a place in Iraq,

(c) directly or indirectly making military technology available in a third country for transfer—

(i) to a person connected with Iraq, or

(ii) to a place in Iraq, or

(d) the transfer of military technology from a place in a third country—

(i) to a person connected with Iraq, or

(ii) to a place in Iraq.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.

(4) In this regulation—
"third country" means—

(a) for the purposes of paragraph (1)(a) and (b), a country that is not the United Kingdom, the Isle of Man or Iraq, and

(b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or Iraq.

Commencement Information

I41 Reg. 21 not in force at made date, see **reg. 1(2)**

I42 Reg. 21 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

CHAPTER 3

Illegally removed Iraqi Cultural Property

Export and import of illegally removed Iraqi cultural property

22.—(1) The export of illegally removed Iraqi cultural property is prohibited.

(2) The import of illegally removed Iraqi cultural property is prohibited.

(3) Paragraphs (1) and (2) are subject to Part 5 (Exceptions and licensing).

Commencement Information

I43 Reg. 22 not in force at made date, see **reg. 1(2)**

I44 Reg. 22 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Supply and delivery of illegally removed Iraqi cultural property

23.—(1) A person must not directly or indirectly supply or deliver illegally removed Iraqi cultural property from a third country to any other third country.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licensing).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the goods were illegally removed Iraqi cultural property.

(4) In this regulation, "third country" means a country that is not the United Kingdom or the Isle of Man.

Commencement Information

I45 Reg. 23 not in force at made date, see **reg. 1(2)**

I46 Reg. 23 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Making available and acquisition of illegally removed Iraqi cultural property

24.—(1) A person must not directly or indirectly—

(a) make available illegally removed Iraqi cultural property to another person;

(b) acquire illegally removed Iraqi cultural property from another person.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licensing).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the goods were illegally removed Iraqi cultural property.

Commencement Information

I47 Reg. 24 not in force at made date, see **reg. 1(2)**

I48 Reg. 24 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Financial services and funds relating to illegally removed Iraqi cultural property

25.—(1) A person must not directly or indirectly provide to another person, financial services or funds in pursuance of, or in connection with, an arrangement whose object or effect is—

(a) the export of illegally removed Iraqi cultural property,

(b) the import of illegally removed Iraqi cultural property,

(c) the direct or indirect supply or delivery of illegally removed Iraqi cultural property, or

(d) the direct or indirect making of illegally removed Iraqi cultural property available to a person.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licensing).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the financial services or funds were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

Commencement Information

I49 Reg. 25 not in force at made date, see **reg. 1(2)**

I50 Reg. 25 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Brokering services: non-UK activity relating to illegally removed Iraqi cultural property

26.—(1) A person must not directly or indirectly provide brokering services in relation to an arrangement ("arrangement A") whose object or effect is—

(a) the direct or indirect supply or delivery of illegally removed Iraqi cultural property from a third country to any other third country,

(b) the direct or indirect making available of illegally removed Iraqi cultural property to a person in a third country, or

(c) the direct or indirect provision, in a non-UK country, of financial services or funds, where arrangement A, or any other arrangement in connection with arrangement A is entered into, is an arrangement mentioned in regulation 25(1).

(2) Paragraph (1) is subject to Part 5 (Exceptions and licensing).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

(4) In this regulation—

(a) "non-UK country" means a country that is not the United Kingdom;

(b) "third country" means a country that is not the United Kingdom or the Isle of Man.

Commencement Information

I51 Reg. 26 not in force at made date, see **reg. 1(2)**

I52 Reg. 26 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Holding or controlling illegally removed Iraqi cultural property

27.—(1) A person who holds or controls illegally removed Iraqi cultural property must secure its transfer to a constable.

(2) Paragraph (1) is subject to Part 5 (Exceptions and licensing).

(3) A person who fails to comply with the requirement in paragraph (1) commits an offence, but it is a defence for a person charged with that offence ("P") to show that P did not know and had no reasonable cause to suspect that the goods held or controlled by P were illegally removed Iraqi cultural property.

Commencement Information

I53 Reg. 27 not in force at made date, see **reg. 1(2)**

I54 Reg. 27 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

CHAPTER 4

Further provision

Circumventing etc. prohibitions

28.—(1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

(a) to circumvent any of the prohibitions in Chapter 2 or 3 of this Part, or

(b) to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes a prohibition in paragraph (1) commits an offence.

Commencement Information

I55 Reg. 28 not in force at made date, see **reg. 1(2)**

I56 Reg. 28 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Defences

29.—(1) Paragraph (2) applies where a person relies on a defence under Chapter 2 or 3 of this Part.

(2) If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

Commencement Information

I57 Reg. 29 not in force at made date, see **reg. 1(2)**

I58 Reg. 29 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

PART 5

Exceptions and licences

Finance: exceptions from prohibitions

30.—(1) The prohibitions in regulations 8 and 9 (partial asset-freeze and asset-freeze) are 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 regulation 8 (partial asset-freeze) and regulations 9 to 11 (asset-freeze in relation to, and making funds available to, or for the benefit of, persons connected with the former Iraqi regime) are not contravened by a relevant institution crediting a frozen account or a relevant account with interest or other earnings due on the account.

(4) The prohibitions in regulations 10 and 11 (making funds available to, or for the benefit of, persons connected with the former Iraqi regime) 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 10 and 11 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 8 to 11 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 [M9],

(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000 [M10], 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 regulation 6(1) or (2);

"frozen account" means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person within the meaning of regulation 6(2);

"relevant account" means an account with a relevant institution which—

(a) is held or controlled (directly or indirectly) by a designated person within the meaning of regulation 6(1), and

(b) which contains "relevant funds or economic resources" within the meaning given to these terms in regulation 8(4);

"relevant institution" means a person that has permission under Part 4A of the Financial Services and Markets Act 2000 [M11] (Permission to carry on regulated activities).

(8) The definition of "relevant institution" in paragraph (7) is to be read with section 22 of the Financial Services and Markets Act 2000 [M12], any relevant order under that section [M13] and Schedule 2 to that Act [M14].

Commencement Information

I59 Reg. 30 not in force at made date, see **reg. 1(2)**

I60 Reg. 30 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M9 2000 c.8. Section 142D was inserted by the Financial Services (Banking Reform) Act 2013 (c.33), **section 4(1)**.

M10 Section 142A was inserted by the Financial Services (Banking Reform) Act 2013, section 4(1).

M11 Part 4A was inserted by the Financial Services Act 2012 (c.21), **section 11(2)** and most recently amended by S.I. 2018/546; it is prospectively amended by S.I. 2019/632.

M12 Section 22 was amended by the Financial Guidance and Claims Act 2018 (c.10), **section 27(4)**; the Financial Services Act 2012 (c.21), **section 7(1)**; and S.I. 2018/135.

M13 S.I. 2001/544, as most recently amended by S.I. 2019/679; S.I. 2020/117; and S.I. 2020/480; and it is prospectively amended by S.I. 2018/1149; S.I. 2108/1403; S.I. 2019/632; S.I. 2019/660; S.I. 2019/710; and S.I. 2019/1361.

M14 Schedule 2 was amended by the Regulation of Financial Services (Land Transactions) Act 2005 (c.24), **section 1**; the Dormant Bank and Building Society Accounts Act 2008 (c.31), **section 15** and Schedule 2, paragraph 1; the Financial Services Act 2012, sections 7(2) to (5) and 8; the Financial Guidance and Claims Act 2018, section 27(13); S.I. 2013/1881; S.I. 2018/135; and it is prospectively amended by S.I. 2019/632.

[[F1]Finance: humanitarian exception

30A.—(1) The prohibitions in regulations 8 to 13 (partial asset-freeze and asset-freeze etc.) are not contravened by a person ("P") carrying out a relevant activity which is necessary—

(a) to ensure the timely delivery of humanitarian assistance, or

(b) to support other activities that support basic human needs,

where Conditions A and B are met.

(2) Condition A is that the humanitarian assistance or other activities mentioned in paragraph (1) are carried out by—

(a) the United Nations, including its—

(i) programmes and funds,

(ii) other entities and bodies, and

(iii) specialised agencies and related organisations,

(b) international organisations,

(c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations,

(d) bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs,

(e) any grantee, subsidiary, or implementing partner of any organisation falling within sub-paragraphs (a) to (d) while and to the extent that they are acting in those capacities,

(f) any other persons authorised by the Committee for the purposes of resolution 2664.

(3) Condition B is that P believes that carrying out the relevant activity is so necessary and there is no reasonable cause for P to suspect otherwise.

(4) For the purposes of this regulation—

"relevant activity" means any activity which would, in the absence of this regulation, contravene the prohibitions in regulations 8 to 13;

"resolution 2664" means resolution 2664 (2022) adopted by the Security Council on 9th December 2022.**]**

Textual Amendments

F1 Reg. 30A inserted (9.2.2023) by The Sanctions (Humanitarian Exception) (Amendment) Regulations 2023 (S.I. 2023/121), regs. 1(2), **11(2)**

Finance: exceptions for return of frozen funds to Iraq

31. The prohibitions in regulations 8 to 13 (partial asset-freeze and asset-freeze etc.) are not contravened by anything done in connection with the transfer of funds or economic resources owned, held or controlled by a designated person (within the meaning of regulation 6(1) or (2)) to the successor account to the Development Fund for Iraq put in place by the Government of Iraq under the conditions set out in resolution 1483 and resolution 1956.

Commencement Information

I61 Reg. 31 not in force at made date, see **reg. 1(2)**

I62 Reg. 31 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Trade: exception for the return of Iraqi cultural property

32. The prohibitions in Chapter 3 of Part 4 (Trade: illegally removed Iraqi cultural property) are not contravened by any thing done to facilitate the safe return of items to Iraqi institutions in accordance with the objectives of paragraph 7 of resolution 1483.

Commencement Information

I63 Reg. 32 not in force at made date, see **reg. 1(2)**

I64 Reg. 32 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Exception for authorised conduct in a relevant country

33.—(1) Where a person's conduct in a relevant country would, in the absence of this regulation, contravene a prohibition in any of regulations 8 to 13 (partial asset-freeze and asset-freeze etc.) or Chapters 2 and 3 of Part 4 (Trade) ("the relevant prohibition"), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued—

(a) under the law of the relevant country, and

(b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

(2) In this regulation, "relevant country" means—

(a) any of the Channel Islands,

(b) the Isle of Man, or

(c) any British overseas territory.

(3) Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.

Commencement Information

I65 Reg. 33 not in force at made date, see **reg. 1(2)**

I66 Reg. 33 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

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

34.—(1) Where an act would, in the absence of this paragraph, be prohibited by any prohibition in Part 3 (Finance) or 4 (Trade), 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 6 (Information and records) or Part 8 (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.

(4) Nothing in this regulation affects the application of a prohibition or requirement in a case where it would be incompatible with a UN obligation for the prohibition or requirement not to apply.

Commencement Information

I67 Reg. 34 not in force at made date, see **reg. 1(2)**

I68 Reg. 34 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Treasury licences

35.—(1) The prohibitions in regulations 8 to 13 (partial asset-freeze and asset-freeze etc.) 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 in relation to a designated person which would otherwise be prohibited by regulation 8 or 9 (partial asset-freeze and asset-freeze) only where the Treasury considers that it is appropriate to issue the licence for the purpose set out in Part 2 of Schedule 2.

(3) The Treasury may issue a licence which authorises acts in relation to a designated person which would otherwise be prohibited by regulations 10 to 13 (making funds or economic resources available to, or for the benefit of, persons connected with the former Iraqi regime) only where the Treasury considers that it is appropriate to issue the licence for a purpose set out in Part 3 of Schedule 2.

[[F2](4) In this regulation, "designated person" has the same meaning as it has in regulation 6(1) or (2)**]**

Textual Amendments

F2 Reg. 35(4) inserted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **12(2)**

Commencement Information

I69 Reg. 35 not in force at made date, see **reg. 1(2)**

I70 Reg. 35 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Trade licences

36. The prohibitions in Chapter 2 of Part 4 (Trade: military goods and military technology) do not apply to anything done under the authority of a licence issued by the Secretary of State under this regulation.

Commencement Information

I71 Reg. 36 not in force at made date, see **reg. 1(2)**

I72 Reg. 36 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Licences: general provisions

37.—(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.

Commencement Information

I73 Reg. 37 not in force at made date, see **reg. 1(2)**

I74 Reg. 37 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Finance: licensing offences

38.—(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.

Commencement Information

I75 Reg. 38 not in force at made date, see **reg. 1(2)**

I76 Reg. 38 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Trade: licensing offences

39.—(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.

Commencement Information

I77 Reg. 39 not in force at made date, see **reg. 1(2)**

I78 Reg. 39 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

PART 6

Information and records

Finance: reporting obligations

40.—(1) A relevant firm must inform the Treasury as soon as practicable if—

(a) it knows, or has reasonable cause to suspect, that a person—

(i) is a designated person, or

(ii) has committed an offence under any provision of Part 3 (Finance) or regulation 38 (finance: licensing offences), and

(b) the information or other matter on which the knowledge or cause for suspicion is based came to it in the course of carrying on its business.

(2) Where a relevant firm informs the Treasury under paragraph (1), it must state—

(a) the information or other matter on which the knowledge or suspicion is based, and

(b) any information it holds about the person by which the person can be identified.

(3) Paragraph (4) applies if—

(a) a relevant firm informs the Treasury under paragraph (1) that it knows, or has reasonable cause to suspect, that a person is a designated person, and

(b) that person is a customer of the relevant firm.

(4) The relevant firm must also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.

(5) A relevant institution must inform the Treasury without delay if that institution—

(a) credits a frozen account in accordance with regulation 30(4) (finance: exceptions from prohibitions), or

(b) transfers funds from a frozen account in accordance with regulation 30(6).

(6) A person who fails to comply with a requirement in paragraph (1), (2) or (4) commits an offence.

(7) In this regulation—

"designated person" has the same meaning as it has in Part 3 (Finance);

"frozen account" has the same meaning as it has in regulation 30;

"relevant firm" is to be read in accordance with regulation 41;

"relevant institution" has the same meaning as it has in regulation 30.

Commencement Information

I79 Reg. 40 not in force at made date, see **reg. 1(2)**

I80 Reg. 40 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

"Relevant firm"

41.—(1) The following are relevant firms for the purposes of regulation 40 (finance: reporting obligations)—

(a) a person that has permission under Part 4A of the Financial Services and Markets Act 2000 (Permission to carry on regulated activities);

(b) an undertaking that by way of business—

(i) operates a currency exchange office,

(ii) transmits money (or any representation of monetary value) by any means, or

(iii) cashes cheques that are made payable to customers;

(c) a firm or sole practitioner that is—

(i) a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (Statutory auditors) [M15], or

(ii) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit) [M16];

(d) a firm or sole practitioner that provides to other persons, by way of business—

(i) accountancy services,

(ii) legal or notarial services,

(iii) advice about tax affairs, or

(iv) trust or company services within the meaning of paragraph (2);

(e) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;

(f) the holder of a casino operating licence within the meaning given by section 65(2)(a) of the Gambling Act 2005 (nature of a licence) [M17];

(g) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—

(i) articles made from gold, silver, platinum or palladium, or

(ii) precious stones or pearls.

[[F3](h) a cryptoasset exchange provider;

(i) a custodian wallet provider.**]**

(2) In paragraph (1) "trust or company services" means any of the following services—

(a) forming companies or other legal persons;

(b) acting, or arranging for another person to act—

(i) as a director or secretary of a company,

(ii) as a partner of a partnership, or

(iii) in a similar capacity in relation to other legal persons;

(c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;

(d) acting, or arranging for another person to act, as—

(i) a trustee of an express trust or similar legal arrangement, or

(ii) a nominee shareholder for a person.

(3) In paragraph (1)—

"estate agency work" is to be read in accordance with section 1 of the Estate Agents Act 1979 [M18], but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of that Act) references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest;

"firm" means any entity that, whether or not a legal person, is not an individual, and includes a body corporate and a partnership or other unincorporated body.

[[F4](3A) In paragraph (1), a "cryptoasset exchange provider" means a firm or sole practitioner that by way of business provides one or more of the following services, including where the firm or sole practitioner does so as creator or issuer of any of the cryptoassets involved—

(a) exchanging, or arranging or making arrangements with a view to the exchange of, cryptoassets for money or money for cryptoassets,

(b) exchanging, or arranging or making arrangements with a view to the exchange of, one cryptoasset for another, or

(c) operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets.

(3B) In paragraph (1), a "custodian wallet provider" means a firm or sole practitioner that by way of business provides services to safeguard, or to safeguard and administer—

(a) cryptoassets on behalf of its customers, or

(b) private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets.

(3C) For the purposes of this regulation—

(a) "cryptoasset" means a cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically;

(b) "money" means—

(i) money in sterling,

(ii) money in any other currency, or

(iii) money in any other medium of exchange,

but does not include a cryptoasset; and

(c) in sub-paragraphs (a) to (c) of paragraph (3A), "cryptoasset" includes a right to, or interest in, the cryptoasset.**]**

(4) Paragraph (1)(a) and (b) are to be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.

(5) For the purposes of regulation 40(1), information or another matter comes to a relevant firm "in the course of carrying on its business" if the information or other matter comes to the firm—

(a) in the case of a relevant firm within paragraph (1)(a), in the course of carrying on an activity in respect of which the permission mentioned in that provision is required;

(b) in the case of a relevant firm within paragraph (1)(c)(i), in the course of carrying out statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of statutory auditor) [M19];

(c) in the case of a relevant firm within paragraph (1)(c)(ii), in the course of carrying out an audit required by the Local Audit and Accountability Act 2014;

(d) in the case of a relevant firm within paragraph (1)(f), in the course of carrying on an activity in respect of which the licence mentioned in that provision is required;

(e) in the case of a relevant firm within any other provision of paragraph (1), in the course of carrying on an activity mentioned in that provision.

Textual Amendments

F3 Reg. 41(1)(h)(i) inserted (30.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(3)(k), **12(3)(a)**

F4 Reg. 41(3A)-(3C) inserted (30.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(3)(k), **12(3)(b)**

Commencement Information

I81 Reg. 41 not in force at made date, see **reg. 1(2)**

I82 Reg. 41 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M15 2006 c.46.

M16 2014 c.2.

M17 2005 c.19.

M18 1979 c.38. Section 1 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), **Schedule 1**, paragraph 40; the Planning (Consequential Provisions) Act 1990 (c.11), **Schedule 2**, paragraph 42; the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11), **Schedule 2**, paragraph 28; the Planning Act (Northern Ireland) 2011 (c.25), **Schedule 6**, paragraph 21; the Enterprise and Regulatory Reform Act 2013 (c.24), **section 70**; S.I. 1991/1220; S.I. 1991/2684; S.S.I. 2000/121 and S.I. 2001/1283.

M19 Section 1210 was amended by S.I. 2008/565; S.I. 2008/1950; S.I. 2011/99; S.I. 2012/1809; S.I. 2013/3115; S.I. 2017/516; and S.I. 2017/1164; and it is prospectively amended by S.I. 2019/177.

Finance: powers to request information

42.—(1) The Treasury may request a designated person to provide information about—

(a) funds or economic resources owned, held or controlled by or on behalf of the designated person, or

(b) any disposal of such funds or economic resources.

(2) The Treasury may request a designated person to provide such information as the Treasury may reasonably require about expenditure—

(a) by the designated person, or

(b) for the benefit of the designated person.

(3) For the purposes of paragraph (2), expenditure for the benefit of a designated person includes expenditure on the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

(4) The power in paragraph (1) or (2) is exercisable only where the Treasury believe that it is necessary for the purpose of monitoring compliance with or detecting evasion of any provision of Part 3 (Finance).

(5) The Treasury may request a person acting under a Treasury licence to provide information about—

(a) funds or economic resources dealt with under the licence, or

(b) funds or economic resources made available under the licence.

(6) The Treasury may request a person to provide information within paragraph (7) if the Treasury believe that the person may be able to provide the information.

(7) Information within this paragraph is such information as the Treasury may reasonably require for the purpose of—

(a) establishing for the purposes of any provision of Part 3 (Finance)—

(i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person,

(ii) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person, or

(iii) the nature of any financial transactions entered into by a designated person;

(b) monitoring compliance with or detecting evasion of—

(i) any provision of Part 3,

(ii) regulation 40 (finance: reporting obligations), or

(iii) any condition of a Treasury licence;

(c) detecting or obtaining evidence of the commission of an offence under Part 3 or regulation 38 (finance: licensing offences) or 40.

(8) The Treasury may specify the way in which, and the period within which, information is to be provided.

(9) If no such period is specified, the information which has been requested must be provided within a reasonable time.

(10) A request may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.

(11) Information requested under this regulation may relate to any period of time during which a person is, or was, a designated person.

(12) Information requested by virtue of paragraph (1)(b), (2) or (7)(a)(iii) may relate to any period before a person became a designated person (as well as, or instead of, any subsequent period).

(13) Expressions used in this regulation have the same meaning as they have in Part 3.

Commencement Information

I83 Reg. 42 not in force at made date, see **reg. 1(2)**

I84 Reg. 42 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Finance: production of documents

43.—(1) A request under regulation 42 (finance: powers to request information) may include a request to produce specified documents or documents of a specified description.

(2) Where the Treasury request that documents be produced, the Treasury may—

(a) take copies of or extracts from any document so produced,

(b) request any person producing a document to give an explanation of it, and

(c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—

(i) in the case of a partnership, a present or past partner or employee of the partnership, or

(ii) in any other case, a present or past officer or employee of the body concerned,

to give such an explanation.

(3) Where the Treasury request a designated person or a person acting under a Treasury licence to produce documents, that person must—

(a) take reasonable steps to obtain the documents (if they are not already in the person's possession or control);

(b) keep the documents under the person's possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

(4) In this regulation "designated person" has the same meaning as it has in Part 3 (Finance).

Commencement Information

I85 Reg. 43 not in force at made date, see **reg. 1(2)**

I86 Reg. 43 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Finance: information offences

44.—(1) A person commits an offence if that person—

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request under regulation 42 (finance: powers to request information);

(b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;

(c) with intent to evade any provision of regulation 42 or 43 (finance: production of documents), destroys, mutilates, defaces, conceals or removes any document;

(d) otherwise intentionally obstructs the Treasury in the exercise of their powers under regulation 42 or 43.

(2) Where a person is convicted of an offence under this regulation, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

Commencement Information

I87 Reg. 44 not in force at made date, see **reg. 1(2)**

I88 Reg. 44 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Trade: application of information powers in CEMA

45.—(1) Section 77A of CEMA [M20] applies in relation to a person carrying on a relevant activity as it applies in relation to a person concerned in the importation or exportation of goods but as if—

(a) in subsection (1), the reference to a person concerned in the importation or exportation of goods for which for that purpose an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991 [M21] or an entry or specification is required by or under CEMA were to a person carrying on a relevant activity;

(b) any other reference to importation or exportation were to a relevant activity;

(c) any other reference to goods were to the goods, technology, services or funds to which the relevant activity relates.

(2) For the purposes of paragraph (1), a "relevant activity" means an activity which would, unless done under the authority of a trade licence, constitute a contravention of—

(a) any prohibition in Chapter 2 or 3 of Part 4 (Trade) except any prohibition on imports or exports, or

(b) the prohibition in regulation 28 (circumventing etc. prohibitions).

Commencement Information

I89 Reg. 45 not in force at made date, see **reg. 1(2)**

I90 Reg. 45 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M20 1979 c.2. Section 77A was inserted by the Finance Act 1987 (c.16), **section 10** and amended by S.I. 1992/3095.

M21 S.I. 1991/2724 is amended by S.I. 1992/3095; S.I. 1993/3014; and S.I. 2011/1043 and it is prospectively revoked by S.I. 2018/1247.

General trade licences: records

46.—(1) This regulation applies in relation to a person ("P") who does any act authorised by a general licence issued under regulation 36 (trade licences) ("the licence").

(2) P must keep a register or record containing such details as may be necessary to allow the following information to be identified in relation to each act done under the authority of the licence—

(a) a description of the act;

(b) a description of any goods, technology, services or funds to which the act relates;

(c) the date of the act or the dates between which the act took place;

(d) the quantity of any goods or funds to which the act relates;

(e) P's name and address;

(f) the name and address of any consignee of goods to which the act relates or any recipient of technology, services or funds to which the act relates;

(g) in so far as it is known to P, the name and address of the end-user of the goods, technology, services or funds to which the act relates;

(h) if different from P, the name and address of the supplier of any goods to which the act relates;

(i) any further information required by the licence.

(3) The register or record relating to an act must be kept until the end of the calendar year in which the register or record is created and for a further period of 4 years from the end of that calendar year.

(4) P must notify the Secretary of State in writing of P's name and the address at which the register or record may be inspected, and must make a further such notification if those details change.

(5) A notification under paragraph (4) must be given no later than 30 days after—

(a) P first does any act authorised by the licence, or

(b) there is any change to the details previously notified.

(6) A person who fails to comply with a requirement in paragraph (2), (3) or (4) commits an offence.

Commencement Information

I91 Reg. 46 not in force at made date, see **reg. 1(2)**

I92 Reg. 46 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

General trade licences: inspection of records

47.—(1) A person authorised by the Secretary of State or the Commissioners (an "official") may at any reasonable hour enter premises notified under regulation 46(4) (general trade licences: records) for the purposes of monitoring compliance with, or detecting evasion of, regulation 46(2) or (3).

(2) An official may require any person on the premises to produce any register or record required to be kept under regulation 46, or any document included in such a register or record, that is in the person's possession or control.

(3) An official may inspect and copy any such register, record or document.

(4) An official must, if requested to do so, produce documentary evidence that he or she is authorised to exercise a power conferred by this regulation.

(5) A person commits an offence if, without reasonable excuse, the person—

(a) intentionally obstructs an official in the performance of any of the official's functions under this regulation, or

(b) fails to produce a register, record or document when reasonably required to do so by an official under this regulation.

Commencement Information

I93 Reg. 47 not in force at made date, see **reg. 1(2)**

I94 Reg. 47 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Disclosure of information

48.—(1) The Secretary of State, the Treasury or the Commissioners may, in accordance with this regulation, disclose—

(a) any information obtained under or by virtue of Part 5 (Exceptions and licences), this Part or Part 8 (Maritime enforcement), or

(b) any information held in connection with—

(i) anything done under or by virtue of Part 2 (Designation of persons), Part 3 (Finance), Part 4 (Trade), or

(ii) any exception or licence under Part 5 or anything done in accordance with such an exception or under the authority of such a licence.

(2) Information referred to in paragraph (1) may be disclosed for, or in connection with, any of the following purposes—

(a) the purpose stated in regulation 4 (purpose);

(b) the exercise of functions under these Regulations;

(c) facilitating, monitoring or ensuring compliance with these Regulations;

(d) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the United Kingdom—

(i) for an offence under any provision of these Regulations,

(ii) for an offence under CEMA in connection with a prohibition in regulation 17(1) (export of military goods) and regulations 22(1) and (2) (export and import of Iraqi cultural property), or

(iii) in relation to a monetary penalty under section 146 of the Policing and Crime Act 2017 (breach of financial sanctions legislation) [M22];

(e) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in any of the Channel Islands, the Isle of Man or any British overseas territory for an offence—

(i) under a provision in any such jurisdiction that is similar to a provision of these Regulations, or

(ii) in connection with a prohibition in any such jurisdiction that is similar to a prohibition referred to in sub-paragraph (d)(ii);

(f) compliance with an international obligation [M23];

(g) facilitating the exercise by an authority outside the United Kingdom or by an international organisation of functions which correspond to functions under these Regulations.

(3) Information referred to in paragraph (1) may be disclosed to the following persons—

(a) a police officer;

(b) any person holding or acting in any office under or in the service of—

(i) the Crown in right of the Government of the United Kingdom,

(ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government,

(iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark,

(iv) the Government of the Isle of Man, or

(v) the Government of any British overseas territory;

(c) any law officer of the Crown for Jersey, Guernsey or the Isle of Man;

(d) the Scottish Legal Aid Board;

(e) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority;

(f) any other regulatory body (whether or not in the United Kingdom);

(g) any organ of the United Nations;

(h) the Council of the European Union, the European Commission or the European External Action Service;

(i) the Government of any country;

(j) any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information.

(4) Information referred to in paragraph (1) may be disclosed to any person with the consent of a person who, in their own right, is entitled to the information.

(5) In paragraph (4) "in their own right" means not merely in the capacity as a servant or agent of another person.

(6) In paragraph (1)(b)—

(a) the reference to information includes information obtained at a time when any provision of these Regulations is not in force, and

(b) the reference to a licence under Part 5 includes—

(i) a licence or authorisation which has effect or is treated as if it were a licence which had been issued under that Part, and

(ii) a licence which is deemed to have been issued under that Part.

Commencement Information

I95 Reg. 48 not in force at made date, see **reg. 1(2)**

I96 Reg. 48 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M22 2017 c.3.

M23 Section 1(8) of the Sanctions and Anti-Money Laundering Act 2018 defines an "international obligation" as an obligation of the United Kingdom created or arising by or under any international agreement.

[[F5]Finance: disclosure to the Treasury

48A.—(1) A relevant public authority may disclose information to the Treasury if the disclosure is made for the purpose of enabling or assisting the Treasury to discharge any of its functions in connection with sanctions.

(2) In this regulation—

"relevant public authority" means—

(a) any person holding or acting in any office under or in the service of—

(i) the Crown in right of the Government of the United Kingdom,

(ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government,

(b) any local authority,

(c) any police officer,

(d) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England or any other regulatory body in the United Kingdom, or

(e) any other person exercising functions of a public nature;

"local authority" means—

(a) in relation to England—

(i) a county council,

(ii) a district council,

(iii) a London Borough council,

(iv) the Common Council of the City of London in its capacity as a local authority,

(v) the Council of the Isles of Scilly, or

(vi) an eligible parish council within the meaning of section 1(2) of the Local Government Act 2000,

(b) in relation to Wales, a county council, a county borough council or a community council,

(c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, or

(d) in relation to Northern Ireland, a district council.**]**

Textual Amendments

F5 Reg. 48A inserted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **12(4)**

Part 6: supplementary

49.—(1) A disclosure of information under regulation 48 (disclosure of information) **[**[F6]or 48A (finance: disclosure to the Treasury)**]** does not breach any restriction on such disclosure imposed by statute or otherwise.

(2) But nothing in **[**[F7]those regulations**]** authorises a disclosure that—

(a) contravenes the data protection legislation, or

(b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016 [M24].

(3) Nothing in this Part is to be read as requiring a person who has acted or is acting as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.

(4) **[**[F8]Regulations 48 and 48A do**]** not limit the circumstances in which information may be disclosed apart from **[**[F9]those regulations**]**.

(5) Nothing in this Part limits any conditions which may be contained in a Treasury licence or a trade licence.

(6) In this regulation—

"the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act) [M25];

"privileged information" means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

Textual Amendments

F6 Words in reg. 49(1) inserted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **12(5)(a)**

F7 Words in reg. 49(2) substituted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **12(5)(b)**

F8 Words in reg. 49(4) substituted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **12(5)(c)(i)**

F9 Words in reg. 49(4) substituted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **12(5)(c)(ii)**

Commencement Information

I97 Reg. 49 not in force at made date, see **reg. 1(2)**

I98 Reg. 49 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M24 2016 c.25. Amendments have been made by the Policing and Crime Act 2017, Schedule 9, paragraph 74; the Data Protection Act 2018 (c.12), **Schedule 19**, paragraphs 198-203; Counter-Terrorism and Border Security Act 2019 (c.3) Schedule 4, paragraph 33; the Sanctions and Anti-Money Laundering Act 2018, section 59(4), Schedule 3, paragraph 7; Crime (Overseas Production Orders) Act 2019 (c.5)

section 16; S.I. 2018/652; S.I. 2018/1123; S.I. 2018/378; S.I. 2018/905; S.I. 2018/1123; S.I. 2019/419; S.I. 2019/742; S.I. 2019/ 939. Saving provisions are made by S.I. 2017/859.

M25 2018 c.12. There are amendments to this Act but none are relevant to these Regulations.

PART 7

Enforcement

Penalties for offences

50.—(1) A person who commits an offence under any provision of Part 3 (Finance) or regulation 38 (finance: licensing offences), is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding **[**[F10]the general limit in a magistrates' court**]** or a fine (or both);

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);

(d) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine (or both).

(2) A person who commits an offence under any provision of Part 4 (Trade) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding **[**[F11]the general limit in a magistrates' court**]** or a fine (or both);

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);

(d) on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine (or both).

(3) A person who commits an offence under regulations 39, 46(6) or 47(5) (offences in connection with trade licences) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding **[**[F12]the general limit in a magistrates' court**]** or a fine (or both);

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);

(d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(4) A person who commits an offence under regulation 40(6) or 44 (information offences in connection with Part 3) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 6 months or a fine (or both);

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both);

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

(5) In relation to an offence committed before **[**[F13]2nd May 2022**]**, the reference in each of paragraphs (1)(a), (2)(a) and (3)(a) to **[**[F14]the general limit in a magistrates' court**]** is to be read as a reference to 6 months.

Textual Amendments

F10 Words in reg. 50(1)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(2), **Sch. Pt. 2**

F11 Words in reg. 50(2)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(2), **Sch. Pt. 2**

F12 Words in reg. 50(3)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(2), **Sch. Pt. 2**

F13 Words in reg. 50(5) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(2), **Sch. Pt. 2**

F14 Words in reg. 50(5) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(2), **Sch. Pt. 2**

Commencement Information

I99 Reg. 50 not in force at made date, see **reg. 1(2)**

I100 Reg. 50 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Liability of officers of bodies corporate etc.

51.—(1) Where an offence under these Regulations committed by a body corporate—

(a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or

(b) is attributable to any neglect on the part of any such person,

that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Paragraph (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

(a) in the case of a partnership, to a partner;

(b) in the case of an unincorporated body other than a partnership—

(i) where the body's affairs are managed by its members, to a member of the body;

(ii) in any other case, to a member of the governing body.

(4) Section 171(4) of CEMA (which is a provision similar to this regulation) does not apply to any offence under these Regulations to which that provision would, in the absence of this paragraph, apply.

Commencement Information

I101 Reg. 51 not in force at made date, see **reg. 1(2)**

I102 Reg. 51 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Jurisdiction to try offences

52.—(1) Where an offence under Part 3 (Finance), regulation 38 (finance: licensing offences) or regulation 40(6) or 44 (information offences in connection with Part 3) is committed in the United Kingdom—

(a) proceedings for the offence may be taken at any place in the United Kingdom, and

(b) the offence may for all incidental purposes be treated as having been committed at any such place.

(2) Where an offence under these Regulations is committed outside the United Kingdom—

(a) proceedings for the offence may be taken at any place in the United Kingdom, and

(b) the offence may for all incidental purposes be treated as having been committed at any such place.

(3) In the application of paragraph (2) to Scotland, any such proceedings against a person may be taken—

(a) in any sheriff court district in which the person is apprehended or is in custody, or

(b) in such sheriff court district as the Lord Advocate may determine.

(4) In paragraph (3) "sheriff court district" is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act) [M26].

Commencement Information

I103 Reg. 52 not in force at made date, see **reg. 1(2)**

I104 Reg. 52 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M26 1995 c.46.

Procedure for offences by unincorporated bodies

53.—(1) Paragraphs (2) and (3) apply if it is alleged that an offence under these Regulations has been committed by an unincorporated body (as opposed to by a member of the body).

(2) Proceedings in England and Wales or Northern Ireland for such an offence must be brought against the body in its own name.

(3) For the purposes of proceedings for such an offence brought against an unincorporated body—

(a) rules of court relating to the service of documents have effect as if the body were a body corporate;

(b) the following provisions apply as they apply in relation to a body corporate—

(i) section 33 of the Criminal Justice Act 1925 [M27] and Schedule 3 to the Magistrates' Courts Act 1980 [M28];

(ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 [M29] and Article 166 of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981 [M30].

(4) A fine imposed on an unincorporated body on its conviction of an offence under these Regulations is to be paid out of the funds of the body.

Commencement Information

I105 Reg. 53 not in force at made date, see **reg. 1(2)**

I106 Reg. 53 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M27 1925 c.86. Section 33 was amended by the Statute Law (Repeals) Act 2004 (c.14), **section 1(1)** and Schedule 1, Part 17. Other amendments have been made to section 33 that are not relevant to these Regulations.

M28 1980 c.43. Amendments have been made to Schedule 3 that are not relevant to these Regulations.

M29 1945 c. 15 (N.I.).

M30 S.I. 1981/1675 (N.I.26).

Time limit for proceedings for summary offences

54.—(1) Proceedings for an offence under these Regulations which is triable only summarily may be brought within the period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the prosecutor's knowledge.

(2) But such proceedings may not be brought by virtue of paragraph (1) more than 3 years after the commission of the offence.

(3) A certificate signed by the prosecutor as to the date on which the evidence in question came to the prosecutor's knowledge is conclusive evidence of the date on which it did so; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

(4) In relation to proceedings in Scotland—

(a) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date of commencement of summary proceedings) applies for the purposes of this regulation as it applies for the purposes of that section, and

(b) references in this regulation to the prosecutor are to be treated as references to the Lord Advocate.

Commencement Information

I107 Reg. 54 not in force at made date, see **reg. 1(2)**

I108 Reg. 54 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Trade enforcement: application of CEMA

55.—(1) Where the Commissioners investigate or propose to investigate any matter with a view to determining—

(a) whether there are grounds for believing that a relevant offence has been committed, or

(b) whether a person should be prosecuted for such an offence,

the matter is to be treated as an assigned matter.

(2) In paragraph (1) "assigned matter" has the meaning given by section 1(1) of CEMA [M31].

(3) In this regulation a "relevant offence" means an offence under—

(a) Part 4 (Trade),

(b) regulation 39 (trade: licensing offences),

(c) regulation 46(6) (general trade licences: records), or

(d) regulation 47(5) (general trade licences: inspection of records).

[[F15](3A) The Commissioners may not investigate the suspected commission of a relevant offence listed in paragraph (3B), (3C) or (3D), unless the suspected offence has been the subject of—

(a) a referral to the Commissioners by the Secretary of State, or

(b) a decision by the Commissioners to treat the suspected offence as if it had been referred to them under sub-paragraph (a).

(3B) Paragraph (3A) applies to the suspected commission of an offence under any of the following provisions—

(a) regulation 23(3) (supply and delivery of illegally removed Iraqi cultural property);

(b) regulation 24(3) (making available and acquisition of illegally removed Iraqi cultural property) insofar as the offence does not relate to the import or export of goods;

(c) regulation 25(3) (financial services and funds relating to illegally removed Iraqi cultural property) insofar as the offence does not relate to the import or export of goods;

(d) regulation 26(3) (brokering services: non-UK activity relating to illegally removed Iraqi cultural property) insofar as the offence does not relate to the import or export of goods;

(e) regulation 27(3) (holding or controlling illegally removed Iraqi cultural property) insofar as the offence does not relate to the import or export of goods.

(3C) Paragraph (3A) also applies to the suspected commission of a relevant offence under any of regulations 39(1), 39(2), 46(6) and 47(5) (trade licensing and information offences) insofar as—

(a) the suspected offence relates to a licence issued under regulation 36 (trade licences), and

(b) the activity authorised by that licence would, if no licence had been issued, amount to an offence specified in paragraph (3B).

(3D) Paragraph (3A) also applies to the suspected commission of a relevant offence under regulation 28(2) (circumventing etc. prohibitions), insofar as the prohibited activity to which the suspected offence relates is the circumvention of, or enabling or facilitation of a contravention of, a prohibition in relation to an offence specified in paragraph (3B).**]**

(4) Section 138 of CEMA [M32] (arrest of persons) applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence as it applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence for which the person is liable to be arrested under the customs and excise Acts [M33], but as if—

(a) any reference to an offence under, or for which a person is liable to be arrested under, the customs and excise Acts were to a relevant offence;

(b) in subsection (2), the reference to any person so liable were to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence.

(5) The provisions of CEMA mentioned in paragraph (6) apply in relation to proceedings for a relevant offence as they apply in relation to proceedings for an offence under the customs and excise Acts, but as if—

(a) any reference to the customs and excise Acts were to any of the provisions mentioned in paragraph (3)(a) to (d);

(b) in section 145(6), the reference to an offence for which a person is liable to be arrested under the customs and excise Acts were to a relevant offence;

(c) in section 151, the reference to any penalty imposed under the customs and excise Acts were to any penalty imposed under these Regulations in relation to a relevant offence;

(d) in section 154(2)—

(i) the reference to proceedings relating to customs or excise were to proceedings under any of the provisions mentioned in paragraph (3)(a) to (d), and

(ii) the reference to the place from which any goods have been brought included a reference to the place to which goods have been exported, supplied or delivered or the place to or from which technology has been transferred.

(6) The provisions of CEMA are sections 145, 146, 147, 148(1), 150, 151, 152, 154 and 155 [M34] (legal proceedings).

Textual Amendments

F15 Reg. 55(3A)-(3D) inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **12(2)**

Commencement Information

I109 Reg. 55 not in force at made date, see **reg. 1(2)**

I110 Reg. 55 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M31 The definition of "assigned matter" in section 1(1) of CEMA was amended by the Commissioners for Revenue and Customs Act 2005 (c.11), **Schedule 4**, paragraph 22(a); the Scotland Act 2012 (c.11), **section 24(7)**; and the Wales Act 2014 (c.29), **section 7(1)**.

M32 Section 138 of CEMA was amended by the Police and Criminal Evidence Act 1984 (c.60), section 114(1), **Schedule 6**, paragraph 37 and Schedule 7, Part 1; the Finance Act 1988 (c.39), **section 11**; the Serious Organised Crime and Police Act 2005 (c.15), **Schedule 7**, paragraph 54; S.I. 1989/1341 (N.I.12); and S.I. 2007/288.

M33 "the customs and excise Acts" is defined in section 1 of CEMA.

M34 Section 145 of CEMA was amended by the Police and Criminal Evidence Act 1984, section 114(1); the Commissioners for Revenue and Customs Act 2005 (c.11), **Schedule 4**, paragraph 23(a); and S.I. 2014/834. Section 147 was amended by the Magistrates Courts Act 1980 (c.43), **section 154** and Schedule 7, paragraph 176; the Criminal Justice Act 1982 (c.48), section 77, **Schedule 14**, paragraph 42; the Finance Act 1989 (c.26), **section 16(2)**; and the Criminal Justice Act 2003 (c.44), section 41, **Schedule 3**, paragraph 50. Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, section 50, Schedule 4, paragraph 26, and section 52, Schedule 5. Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, section 50, Schedule 4, paragraph 27, and section 52, Schedule 5.

Trade offences in CEMA: modification of penalty

56.—(1) Paragraph (2) applies where a person is guilty of an offence under section 50(2) of CEMA in connection with the prohibition in regulation 22(2) (import of illegally removed Iraqi cultural property).

(2) Where this paragraph applies, the reference to 7 years in section 50(4)(b) [M35] of CEMA is to be read as a reference to 10 years.

(3) Paragraph (4) applies where a person is guilty of an offence under section 68(2) of CEMA in connection with a prohibition mentioned in regulation 17(1) or 22(1) (exports).

(4) Where this paragraph applies, the reference to 7 years in section 68(3)(b) of CEMA [M36] is to be read as a reference to 10 years.

(5) Paragraph (6) applies where a person is guilty of an offence under section 170(2) of CEMA in connection with a prohibition mentioned in regulation 17(1) or 22 (exports or imports).

(6) Where this paragraph applies, the reference to 7 years in section 170(3)(b) of CEMA [M37] is to be read as a reference to 10 years.

Commencement Information

I111 Reg. 56 not in force at made date, see **reg. 1(2)**

I112 Reg. 56 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M35 The words "7 years" were inserted into section 50(4)(b) of CEMA by the Finance Act 1988, section 12.

M36 The words "7 years" were inserted in section 68(3)(b) of CEMA by the Finance Act 1988, section 12.

M37 The words "7 years" were inserted in section 170(3)(b) of CEMA by the Finance Act 1988, section 12.

Application of Chapter 1 of Part 2 of Serious Organised Crime and Police Act 2005

57. Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (investigatory powers) [M38] applies to any offence under Part 3 (Finance) or regulation 38 (finance: licensing offences).

Commencement Information

I113 Reg. 57 not in force at made date, see **reg. 1(2)**

I114 Reg. 57 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M38 2005 c.15. Chapter 1 of Part 2 has been amended by the Terrorism Act 2006 (c.11), **section 33(3)** and (4); the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33), **sections 26(2)** and 30(2) and Schedules 3 and 5; the Bribery Act 2010 (c.23), **section 17(2)** and Schedule 1; the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **section 203** and Schedule 7, paragraph 77; the Crime and Courts Act 2013 (c.22), **section 15** and Schedule 8, paragraph 157 and 159; the Criminal Finances Act 2017 (c.22), **section 51(1)**; the Sanctions and Anti-Money Laundering Act, section 59(4) and Schedule 3, paragraph 4; S.I. 2006/1629 and S.I. 2014/834.

Monetary penalties

58. The following provisions are to be regarded as not being financial sanctions legislation for the purposes of Part 8 of the Policing and Crime Act 2017 [M39]—

(a) regulation 25(1) (financial services relating to illegally removed Iraqi cultural property);

(b) regulation 26(1) (brokering services: non-UK activity relating to illegally removed Iraqi cultural property).

Commencement Information

I115 Reg. 58 not in force at made date, see **reg. 1(2)**

I116 Reg. 58 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M39 See section 143(4)(f) and (4A), as inserted by the Sanctions and Anti-Money Laundering Act 2018, Schedule 3, paragraph 8(1) and (3).

PART 8

Maritime enforcement

Exercise of maritime enforcement powers

59.—(1) A maritime enforcement officer may, for a purpose mentioned in paragraph (2) or (3), exercise any of the maritime enforcement powers in relation to—

(a) a British ship in foreign waters or international waters,

(b) a ship without nationality in international waters, or

(c) a foreign ship in international waters,

and a ship within sub-paragraph (a), (b) or (c) is referred to in this Part as "a relevant ship".

(2) The maritime enforcement powers may be exercised for the purpose of enforcing any of the following—

(a) a prohibition in any of regulations 17 to 20 (trade prohibitions relating to military goods and military technology);

(b) a prohibition in any of regulations 22 to 24 (trade prohibitions relating to Iraqi cultural property);

(c) a prohibition imposed by a condition of a trade licence in relation to a prohibition mentioned in sub-paragraph (a).

(3) The maritime enforcement powers may also be exercised in relation to a relevant ship for the purpose of—

(a) investigating the suspected carriage of relevant goods on the ship, or

(b) preventing the continued carriage on the ship of goods suspected to be relevant goods.

(4) In this Part, "the maritime enforcement powers" are the powers conferred by regulations 61 (power to stop, board, search etc.) and 62 (seizure power).

(5) This regulation is subject to regulation 63 (restrictions on exercise of maritime enforcement powers).

Commencement Information

I117 Reg. 59 not in force at made date, see **reg. 1(2)**

I118 Reg. 59 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Maritime enforcement officers

60.—(1) The following persons are "maritime enforcement officers" for the purposes of this Part—

(a) a commissioned officer of any of Her Majesty's ships;

(b) a member of the Ministry of Defence Police (within the meaning of section 1 of the Ministry of Defence Police Act 1987 [M40]);

(c) a constable—

(i) who is a member of a police force in England and Wales,

(ii) within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012 [M41], or

(iii) who is a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

(d) a special constable—

(i) appointed under section 27 of the Police Act 1996 [M42],

(ii) appointed under section 9 of the Police and Fire Reform (Scotland) Act 2012, or

(iii) in Northern Ireland, appointed by virtue of provision incorporating section 79 of the Harbours, Docks, and Piers Clauses Act 1847 [M43];

(e) a constable who is a member of the British Transport Police Force;

(f) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013 [M44], or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964 [M45];

(g) a designated customs official within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act) [M46];

(h) a designated NCA officer who is authorised by the Director General of the National Crime Agency (whether generally or specifically) to exercise the powers of a maritime enforcement officer under this Part.

(2) In this regulation, "a designated NCA officer" means a National Crime Agency officer who is either or both of the following—

(a) an officer designated under section 10 of the Crime and Courts Act 2013 [M47] as having the powers and privileges of a constable;

(b) an officer designated under that section as having the powers of a general customs official.

Commencement Information

I119 Reg. 60 not in force at made date, see **reg. 1(2)**

I120 Reg. 60 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M40 1987 c.4. Section 1 was amended by the Police Act 1996 (c.16), **Schedule 7**, paragraph 41; the Police (Northern Ireland) Act 1998 (c.32), **Schedule 4**, paragraph 16; the Police Reform Act 2002 (c.30), **section 79(3)**; and S.I. 2013/602.

M41 2012 asp.8.

M42 1996 c.16. Section 27 was amended by the Police and Justice Act 2006 (c.48), **Schedule 2**, paragraph 23; the Policing and Crime Act 2009 (c.26), **Schedule 7**, paragraphs 1 and 6; and the Police Reform and Social Responsibility Act 2011 (c.13), **Schedule 16**, paragraph 26.

M43 1847 c.27. Section 79 was amended by S.I. 2006/2167.
M44 2013 c.23.
M45 1964 c.40. Section 16 was amended by section 29(2) of the Wales Act 2017 (c.4); S.I. 1970/1681; and S.I. 1999/672. Other amendments have been made to section 16 that are not relevant to these Regulations.
M46 2009 c.11. Designated customs officials are designated, as either a general customs official or a customs revenue official, under sections 3 and 11 of this Act respectively.
M47 2013 c.22.

Power to stop, board, search etc.

61.—(1) This regulation applies if a maritime enforcement officer has reasonable grounds to suspect that a relevant ship is carrying prohibited goods or relevant goods.

(2) The officer may—

(a) stop the ship;

(b) board the ship;

(c) for the purpose of exercising a power conferred by paragraph (3) or regulation 62 (seizure power), require the ship to be taken to, and remain in, a port or anchorage in the United Kingdom or any other country willing to receive it.

(3) Where the officer boards a ship by virtue of this regulation, the officer may—

(a) stop any person found on the ship and search that person for—

(i) prohibited goods or relevant goods, or

(ii) any thing that might be used to cause physical injury or damage to property or to endanger the safety of any ship;

(b) search the ship, or any thing found on the ship (including cargo) for prohibited goods or relevant goods.

(4) The officer may—

(a) require a person found on a ship boarded by virtue of this regulation to provide information or produce documents;

(b) inspect and copy such information or documents.

(5) The officer may exercise a power conferred by paragraph (3)(a)(i) or (b) only to the extent reasonably required for the purpose of discovering prohibited goods or relevant goods.

(6) The officer may exercise the power conferred by paragraph (3)(a)(ii) in relation to a person only where the officer has reasonable grounds to believe that the person might use a thing to cause physical injury or damage to property or to endanger the safety of any ship.

(7) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

Commencement Information
I121 Reg. 61 not in force at made date, see **reg. 1(2)**
I122 Reg. 61 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Seizure power

62.—(1) This regulation applies if a maritime enforcement officer is lawfully on a relevant ship (whether in exercise of the powers conferred by regulation 61 (power to stop, board, search etc.) or otherwise).

(2) The officer may seize any of the following which are found on the ship, in any thing found on the ship, or on any person found on the ship—

(a) goods which the officer has reasonable grounds to suspect are prohibited goods or relevant goods, or

(b) things within regulation 61(3)(a)(ii).

(3) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

Commencement Information

I123 Reg. 62 not in force at made date, see **reg. 1(2)**

I124 Reg. 62 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Restrictions on exercise of maritime enforcement powers

63.—(1) The authority of the Secretary of State is required before any maritime enforcement power is exercised in reliance on regulation 59 (exercise of maritime enforcement powers) in relation to—

(a) a British ship in foreign waters, or

(b) a foreign ship in international waters.

(2) In relation to a British ship in foreign waters other than the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant British possession, the Secretary of State may give authority under paragraph (1) only if the State in whose waters the power would be exercised consents to the exercise of the power.

(3) In relation to a foreign ship in international waters, the Secretary of State may give authority under paragraph (1) only if—

(a) the home state has requested the assistance of the United Kingdom for a purpose mentioned in regulation 59(2) or (3),

(b) the home state has authorised the United Kingdom to act for such a purpose, or

(c) the United Nations Convention on the Law of the Sea 1982 [M48] or a UN Security Council Resolution otherwise permits the exercise of the power in relation to the ship.

Commencement Information

I125 Reg. 63 not in force at made date, see **reg. 1(2)**

I126 Reg. 63 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M48 Command 8941.

Interpretation of Part 8

64.—(1) Subject to paragraph (2), any expression used in this Part and in section 19 or 20 of the Act has the same meaning in this Part as it has in section 19 or (as the case may be) section 20 of the Act.

(2) For the purpose of interpreting any reference to "prohibited goods" or "relevant goods" in this Part, any reference in section 19 or 20 of the Act to a "relevant prohibition or requirement" is to be read as a reference to any prohibition specified in regulation 59(2)(a) to (c) (exercise of maritime enforcement powers).

Commencement Information

I127 Reg. 64 not in force at made date, see **reg. 1(2)**

I128 Reg. 64 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

PART 9

Supplementary and final provision

Notices

65.—(1) This regulation applies in relation to a notice required by regulation 37 (licences: general provisions) to be given to a person.

(2) The notice may be given to an individual—

(a) by delivering it to the individual,

(b) by sending it to the individual by post addressed to the individual at his or her usual or last-known place of residence or business, or

(c) by leaving it for the individual at that place.

(3) The notice may be given to a person other than an individual—

(a) by sending it by post to the proper officer of the body at its principal office, or

(b) by addressing it to the proper officer of the body and leaving it at that office.

(4) The notice may be given to the person by other means, including by electronic means, with the person's consent.

(5) In this regulation, the reference in paragraph (3) to a "principal office"—

(a) in relation to a registered company, is to be read as a reference to the company's registered office;

(b) in relation to a body incorporated or constituted under the law of a country other than the United Kingdom, includes a reference to the body's principal office in the United Kingdom (if any).

(6) In this regulation—

"proper officer"—

(a) in relation to a body other than a partnership, means the secretary or other executive officer charged with the conduct of the body's general affairs, and

(b) in relation to a partnership, means a partner or a person who has the control or management of the partnership business;

"registered company" means a company registered under the enactments relating to companies for the time being in force in the United Kingdom.

Commencement Information

I129 Reg. 65 not in force at made date, see **reg. 1(2)**

I130 Reg. 65 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Article 20 of the Export Control Order 2008

66. Article 20 of the Export Control Order 2008 (embargoed destinations) is not to be taken to prohibit anything prohibited by Part 4 (Trade).

Commencement Information

I131 Reg. 66 not in force at made date, see **reg. 1(2)**

I132 Reg. 66 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Trade: overlapping offences

67. A person is not to be taken to commit an offence under the Export Control Order 2008 if the person would, in the absence of this regulation, commit an offence under both—

(a) article 34, 37 or 38 of that Order [M49], and

(b) any provision of Part 4 (Trade) or regulation 39 (trade: licensing offences), 46(6) or 47(5) (information offences in connection with general trade licences).

Commencement Information

I133 Reg. 67 not in force at made date, see **reg. 1(2)**

I134 Reg. 67 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M49 Articles 37 and 38 are prospectively amended by S.I. 2019/137. Article 37 has been amended by S.I. 2012/1910. Article 38 has also been amended by S.I. 2017/85.

Revocations

68.—(1) Council Regulation (EC) No 1210/2003 of 7 July 2003, concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96[M50] is revoked.

(2) The Iraq (Asset-Freezing) Regulations 2012 [M51] are revoked.

(3) The Iraq (United Nations Sanctions) Order 2003 [M52] is revoked.

(4) The Iraq (United Nations Sanctions) (Amendment) Order 2011 [M53] is revoked.

Commencement Information

I135 Reg. 68 not in force at made date, see **reg. 1(2)**

I136 Reg. 68 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M50 As prospectively amended by S.I. 2019/380.

M51 S.I. 2012/1489, as amended by S.I. 2013/472; S.I. 2013/534; S.I. 2017/560; S.I. 2017/754; S.I. 2018/1149 and it is prospectively amended by S.I. 2019/380.

M52 S.I. 2003/1519, as amended by S.I. 2004/1498; S.I. 2004/1779; S.I. 2005/3389; S.I. 2011/2437; S.I. 2012/362 and S.I. 2012/1489.

M53 S.I. 2011/2437.

Amendment to the United Nations and European Union Financial Sanctions (Linking) Regulations 2017

69. In the Schedule to the United Nations and European Union Financial Sanctions (Linking) Regulations 2017 [M54], omit the following row from the table—

"United Nations Security Council Resolution 1483 (2003)	Council Regulation (EC) No. 1210/2003 of 7th July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No. 2465/96.".

Commencement Information

I137 Reg. 69 not in force at made date, see **reg. 1(2)**

I138 Reg. 69 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M54 S.I. 2017/478, to which there are amendments not relevant to these Regulations.

Transitional provision: Treasury licences

70.—(1) Paragraphs (2) to (4) apply to a licence which—

(a) was granted, or deemed to be granted, by the Treasury under—

(i) article 5 of the 2000 Order, or

(ii) regulation 9 of the 2012 Regulations [M55],

(b) was in effect immediately before the relevant date, and

(c) authorises conduct which would (on and after the relevant date, and in the absence of paragraphs (2) to (4)) be prohibited under Part 3 (Finance),

and such a licence is referred to in this regulation as "an existing financial sanctions licence".

(2) An existing financial sanctions licence which authorises an act which would otherwise be prohibited has effect on and after the relevant date as if it had been issued by the Treasury under regulation 35 (Treasury licences).

(3) Any reference in an existing financial sanctions licence to the EU Iraq Regulation, the 2000 Order or the 2012 Regulations is to be treated on and after the relevant date as a reference to these Regulations.

(4) Any reference in an existing financial sanctions licence to a prohibition in—

(a) the 2000 Order,

(b) the 2012 Regulations,

(c) the EU Iraq Regulation,

is to be treated on and after the relevant date as a reference to the corresponding prohibition in Part 3.

(5) Paragraph (6) applies where—

(a) an application for a licence, or for the variation of a licence, under the 2000 Order or the 2012 Regulations was made before the relevant date,

(b) the application is for the authorisation of conduct which would (on and after the relevant date) be prohibited under Part 3, and

(c) a decision to grant or refuse the application has not been made before that date.

(6) The application is to be treated on and after the relevant date as an application for a licence, or for the variation of a licence (as the case may be), under regulation 35(1).

(7) In this regulation—

"the 2000 Order" means the Iraq (United Nations Sanctions) Order 2000 [M56];

"the 2012 Regulations" means the Iraq (Asset-Freezing) Regulations 2012;

"the relevant date" means—

(a) where regulations under section 56 of the Act provide that Part 3 comes into force at a specified time on a day, that time on that day;

(b) otherwise, the date on which Part 3 comes into force.

Commencement Information

I139 Reg. 70 not in force at made date, see **reg. 1(2)**

I140 Reg. 70 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M55 Regulation 19 of the 2012 Regulations treated licences granted under article 5 of the 2000 Order as if they had been granted under regulation 9 of the 2012 Regulations.

M56 S.I. 2000/3241, revoked by S.I. 2012/1489 but with a savings provision in regulation 19 in respect of licences granted under the 2000 Order.

Transitional provision: trade licences

71.—(1) Paragraph (2) applies in relation to each licence or authorisation granted by the Secretary of State which—

(a) was in effect immediately before the relevant date, and

(b) authorises an act—

(i) which would otherwise be prohibited by any provision of the Export Control Order 2008 except article 20 of that Order (embargoed destinations), and

(ii) which would (on and after the relevant date, and in the absence of paragraph (2)) be prohibited by Part 4 (Trade),

and such a licence or authorisation is referred to in this regulation as an "existing trade licence".

(2) A licence is deemed to have been issued by the Secretary of State at the beginning of the relevant date under regulation 36 (trade licences)—

(a) disapplying every provision of Part 4 which would, in the absence of this paragraph, prohibit any act authorised by the existing trade licence, and

(b) otherwise in the same terms as the existing trade licence.

(3) Paragraphs (4) to (6) apply to a licence or authorisation granted by the Secretary of State which—

(a) was in effect immediately before the relevant date,

(b) is not an existing trade licence, and

(c) authorises an act—

(i) which would otherwise be prohibited by either—

(aa) the EU Iraq Regulation, or

(bb) the Iraq (United Nations Sanctions) Order 2003, and

(ii) which would (on and after the relevant date, and in the absence of paragraphs (4) to (6)) be prohibited by Part 4,

and such a licence or authorisation is referred to in this regulation as an "existing trade sanctions licence".

(4) An existing trade sanctions licence has effect on and after the relevant date as if it were a licence which had been issued by the Secretary of State under regulation 36.

(5) Any reference in an existing trade sanctions licence to a provision of the Iraq (United Nations Sanctions) Order 2003 or the Export Control Order 2008 is to be treated on and after the relevant date as a reference to the corresponding provision of these Regulations (if any).

(6) Any reference in an existing trade sanctions licence to a prohibition in the EU Iraq Regulation is to be treated on and after the relevant date as a reference to the corresponding prohibition in Part 4 (Trade).

(7) In this regulation, "the relevant date" means—

(a) where regulations under section 56 of the Act provide that Part 4 comes into force at a specified time on a day, that time on that day;

(b) otherwise, the date on which Part 4 comes into force.

Commencement Information

I141 Reg. 71 not in force at made date, see **reg. 1(2)**

I142 Reg. 71 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Transitional provision: pending applications for trade licences

72.—(1) Paragraph (2) applies where—

(a) an application was made before the relevant date for a licence or authorisation under or pursuant to the Export Control Order 2008,

(b) the application is for authorisation of an act prohibited by Part 4 (Trade), and

(c) a decision to grant or refuse the application has not been made before the relevant date.

(2) The application is to be treated on and after the relevant date as including an application for a licence under regulation 36 (trade licences).

(3) Paragraph (4) applies where—

(a) an application was made before the relevant date for a licence or authorisation under the Iraq (United Nations Sanctions) Order 2003 or the EU Iraq Regulation,

(b) the application is for authorisation of an act prohibited by Part 4 (Trade), and

(c) a decision to grant or refuse the application has not been made before the relevant date.

(4) The application is to be treated on and after the relevant date as an application for a licence under regulation 36.

(5) In this regulation, "the relevant date" means—

(a) where regulations under section 56 of the Act provide that Part 4 comes into force at a specified time on a day, that time on that day;

(b) otherwise, the date on which Part 4 comes into force.

Commencement Information

I143 Reg. 72 not in force at made date, see **reg. 1(2)**

I144 Reg. 72 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Transitional provision: prior obligations

73.—(1) Where—

(a) a person was named in Annex IV of the EU Iraq Regulation immediately before the relevant date, and

(b) the person is a designated person immediately before the relevant date,

any reference in regulation 30(5) (finance: exceptions from prohibitions) to the date on which a person became a designated person is to be read as a reference to the date on which the person was so named.

(2) Where, immediately before the relevant date, a person was named by the Security Council or the Committee for the purposes of paragraph 23(b) of resolution 1483, any reference in regulation 30(5) to the date on which a person became a designated person is to be read as a reference to the date on which the person was so named.

(3) In this regulation—

"designated person" has the same meaning as it has in regulation 6(2);

"the relevant date" means—

(a) where regulations under section 56 of the Act provide that Part 3 comes into force at a specified time on a day, that time on that day;

(b) otherwise, the date on which Part 3 comes into force.

Commencement Information

I145 Reg. 73 not in force at made date, see **reg. 1(2)**

I146 Reg. 73 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Ahmad
Minister of State

Foreign and Commonwealth Office

SCHEDULES

SCHEDULE 1

Regulation 7(3)

Rules for interpretation of regulation 7(2)

Application of Schedule

1.—(1) The rules set out in the following paragraphs of this Schedule apply for the purpose of interpreting regulation 7(2).

(2) They also apply for the purpose of interpreting this Schedule.

Commencement Information

I147 Sch. 1 para. 1 not in force at made date, see **reg. 1(2)**

I148 Sch. 1 para. 1 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Joint interests

2. If two or more persons each hold a share or right jointly, each of them is treated as holding that share or right.

Commencement Information

I149 Sch. 1 para. 2 not in force at made date, see **reg. 1(2)**

I150 Sch. 1 para. 2 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Joint arrangements

3.—(1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined shares or rights of both of them.

(2) A "joint arrangement" is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.

(3) "Arrangement" has the meaning given by paragraph 12.

Commencement Information

I151 Sch. 1 para. 3 not in force at made date, see **reg. 1(2)**

I152 Sch. 1 para. 3 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Calculating shareholdings

4.—(1) In relation to a person who has a share capital, a reference to holding "more than 50% of the shares" in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 50% of that share capital.

(2) In relation to a person who does not have a share capital—

(a) a reference to holding shares in that person is to holding a right or rights to share in the capital or, as the case may be, profits of that person;

(b) a reference to holding "more than 50% of the shares" in that person is to holding a right or rights to share in more than 50% of the capital or, as the case may be, profits of that person.

Commencement Information

I153 Sch. 1 para. 4 not in force at made date, see **reg. 1(2)**

I154 Sch. 1 para. 4 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Voting rights

5.—(1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.

(2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights—

(a) a reference to holding voting rights in the person is to be read as a reference to holding rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company;

(b) a reference to holding "more than 50% of the voting rights" in the person is to be read as a reference to holding the right under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.

Commencement Information

I155 Sch. 1 para. 5 not in force at made date, see **reg. 1(2)**

I156 Sch. 1 para. 5 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

6. In applying regulation 7(2) and this Schedule, the voting rights in a person are to be reduced by any rights held by the person itself.

Commencement Information

I157 Sch. 1 para. 6 not in force at made date, see **reg. 1(2)**

I158 Sch. 1 para. 6 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Rights to appoint or remove members of the board

7. A reference to the right to appoint or remove a majority of the board of directors of a person is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

Commencement Information

I159 Sch. 1 para. 7 not in force at made date, see **reg. 1(2)**

I160 Sch. 1 para. 7 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

8. A reference to a board of directors, in the case of a person who does not have such a board, is to be read as a reference to the equivalent management body of that person.

Commencement Information

I161 Sch. 1 para. 8 not in force at made date, see **reg. 1(2)**

I162 Sch. 1 para. 8 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Shares or rights held "indirectly"

9.—(1) A person holds a share "indirectly" if the person has a majority stake in another person and that other person—

(a) holds the share in question, or

(b) is part of a chain of persons—

(i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and

(ii) the last of whom holds the share.

(2) A person holds a right "indirectly" if the person has a majority stake in another person and that other person—

(a) holds that right, or

(b) is part of a chain of persons—

(i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and

(ii) the last of whom holds that right.

(3) For these purposes, a person ("A") has a "majority stake" in another person ("B") if—

(a) A holds a majority of the voting rights in B,

(b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,

(c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or

(d) A has the right to exercise, or actually exercises, dominant influence or control over B.

(4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a person ("A") is to be treated as having the right to appoint a director if—

(a) any person's appointment as director follows necessarily from that person's appointment as director of A, or

(b) the directorship is held by A itself.

Commencement Information

I163 Sch. 1 para. 9 not in force at made date, see **reg. 1(2)**

I164 Sch. 1 para. 9 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Shares held by nominees

10. A share held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

Commencement Information
I165 Sch. 1 para. 10 not in force at made date, see **reg. 1(2)**
I166 Sch. 1 para. 10 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Rights treated as held by person who controls their exercise

11.—(1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).

(2) A person "controls" a right if, by virtue of any arrangement between that person and others, the right is exercisable only—

(a) by that person,

(b) in accordance with that person's directions or instructions, or

(c) with that person's consent or concurrence.

Commencement Information
I167 Sch. 1 para. 11 not in force at made date, see **reg. 1(2)**
I168 Sch. 1 para. 11 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

12. "Arrangement" includes—

(a) any scheme, agreement or understanding, whether or not it is legally enforceable, and

(b) any convention, custom or practice of any kind.

Commencement Information
I169 Sch. 1 para. 12 not in force at made date, see **reg. 1(2)**
I170 Sch. 1 para. 12 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Rights exercisable only in certain circumstances etc.

13.—(1) Rights that are exercisable only in certain circumstances are to be taken into account only—

(a) when the circumstances have arisen, and for so long as they continue to obtain, or

(b) when the circumstances are within the control of the person having the rights.

(2) But rights that are exercisable by an administrator or by creditors while a person is subject to relevant insolvency proceedings are not to be taken into account while the person is subject to those proceedings.

(3) "Relevant insolvency proceedings" means—

(a) administration within the meaning of the Insolvency Act 1986 [M57],

(b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989 [M58], or

(c) proceedings under the insolvency law of another country during which a person's assets and affairs are subject to the control or supervision of a third party or creditor.

(4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

Commencement Information

I171 Sch. 1 para. 13 not in force at made date, see **reg. 1(2)**

I172 Sch. 1 para. 13 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Marginal Citations

M57 1986 c.45.

M58 S.I. 1989/2405 (N.I.19).

Rights attached to shares held by way of security

14. Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—

(a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person's instructions, and

(b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person's interests.

Commencement Information

I173 Sch. 1 para. 14 not in force at made date, see **reg. 1(2)**

I174 Sch. 1 para. 14 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

SCHEDULE 2 Reg 35

Treasury licences: purposes

PART 1

Interpretation

1. In this Schedule—

"designated person" means a person designated for the purposes of regulations 9 to 13 (asset-freeze etc. in relation to persons connected with the former Iraqi regime) under regulation 5(2); for the purposes of Part 2 only, "designated person" also includes a person who is designated for the purposes of regulation 8 (partial asset-freeze in relation to the former Government of Iraq and its state bodies, corporations or agencies) by reason of regulation 5(1);

"frozen funds or economic resources" means funds or economic resources frozen by virtue of regulation 8 or 9, and any reference to a person's frozen funds or economic resources is to funds or economic resources frozen as a consequence of the designation of that person for the purpose of that regulation.

Commencement Information

I175 Sch. 2 para. 1 not in force at made date, see **reg. 1(2)**

I176 Sch. 2 para. 1 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

PART 2

Pre-existing judicial decisions etc.

2. To enable, by the use of a designated person's frozen funds or economic resources, the implementation or satisfaction (in whole or in part) of a judicial, administrative or arbitral decision or lien, provided that—

(a) the funds or economic resources so used are the subject of the decision or lien,

(b) the decision or lien—

(i) was made or established before 22 May 2003, and

(ii) is enforceable in the United Kingdom, and

(c) the use of the frozen funds or economic resources does not directly or indirectly benefit any other designated person.

Commencement Information

I177 Sch. 2 para. 2 not in force at made date, see **reg. 1(2)**

I178 Sch. 2 para. 2 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

PART 3

Purposes: persons connected with the former Iraqi regime

Basic needs

3.—(1) To enable the basic needs of a designated person, or any dependent family member of such a person, to be met.

(2) In sub-paragraph (1), "basic needs" includes—

(a) medical needs;

(b) needs for—

(i) food;

(ii) payments of insurance premiums;

(iii) payments of tax;

(iv) rent or mortgage payments;

(v) utility payments.

(3) In sub-paragraph (1)—

"dependent" means financially dependent;

"family member" includes—

(a) the wife or husband of the designated person;

(b) the civil partner of the designated person;

(c) any parent or other ascendant of the designated person;

(d) any child or other descendant of the designated person;

(e) any person who is a brother or sister of the designated person, or a child or other descendant of such a person.

Commencement Information

I179 Sch. 2 para. 3 not in force at made date, see **reg. 1(2)**

I180 Sch. 2 para. 3 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Legal services

4. To enable the payment of—

(a) reasonable professional fees for the provision of legal services, or

(b) reasonable expenses associated with the provision of legal services.

Commencement Information

I181 Sch. 2 para. 4 not in force at made date, see **reg. 1(2)**

I182 Sch. 2 para. 4 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Maintenance of frozen funds and economic resources

5. To enable the payment of—

(a) reasonable fees, or

(b) reasonable service charges,

arising from the routine holding or maintenance of frozen funds or economic resources.

Commencement Information

I183 Sch. 2 para. 5 not in force at made date, see **reg. 1(2)**

I184 Sch. 2 para. 5 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

Extraordinary expenses

6. To enable an extraordinary expense of a designated person to be met.

Commencement Information

I185 Sch. 2 para. 6 not in force at made date, see **reg. 1(2)**

I186 Sch. 2 para. 6 in force at 31.12.2020 by S.I. 2020/1514, **reg. 14(2)**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Sanctions and Anti-Money Laundering Act 2018 (c.13) to establish a sanctions regime in relation to Iraq for the purposes of compliance with the United Kingdom's United Nations obligations. Those obligations include sanctions measures in UN Security Council resolution 1483 adopted by the Security Council on 22 May 2003 as those measures have been revised and updated by subsequent resolutions.

Following the United Kingdom's withdrawal from the European Union, these Regulations also replace the European Union sanctions regime in relation to Iraq which is currently implemented via an EU Council Common Position and Regulation.

The Regulations provide that persons who are listed by the UN are designated persons for the purposes of these Regulations. There are two categories of designated persons: those who are designated under paragraph 23(a) of UN Security Council resolution 1483 (2003) as being part of the former Government of Iraqi and its state bodies, corporations or agencies, and those who are designated under paragraph 23(b) of the same resolution as being senior officials of the former Iraqi regime and their immediate family members. The second category of designated persons (designated under paragraph 23(b)) are subject to financial sanctions, which include having their funds and economic resources frozen. The first category of persons (designated under paragraph 23(a)) are subject to a partial asset-freeze which prohibits certain dealings with funds owned, held or controlled by those persons provided the funds were located outside of Iraq on 22 May 2003.

The Regulations also impose trade restrictions on military goods and technology as well as restrictions on the trade in Iraqi cultural property which was illegally removed from Iraq on or after 6 August 1990.

The Regulations provide for certain exceptions to this sanctions regime, in particular in relation to financial sanctions (for example to allow for frozen accounts to be credited with interest or other earnings) and also acts done for the purpose of national security or the prevention of serious crime.

The Regulations also confer powers on the Secretary of State and the Treasury to issue licences in respect of activities that would otherwise be prohibited under the financial and trade sanctions. Schedule 2 to the Regulations sets out the purposes pursuant to which the Treasury may issue such licences.

The Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in these Regulations and prescribe the mode of trial and penalties that apply to such offences. They also provide for the application of similar types of provision in the Customs and Excise Management Act 1979 to certain offences relating to trade.

The Regulations also confer powers on specified maritime enforcement officers to stop and search ships in international and foreign waters for the purpose of enforcing specified trade sanctions and to seize goods found on board ships which are being, or have been, dealt with in contravention, or deemed contravention, of those prohibitions. The Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime.

Council Regulation (EC) 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96 Regulation (EU) is revoked by these Regulations. The Iraq (Asset-Freezing) Regulations 2012, the Iraq (United Nations Sanctions) Order 2003 and the Iraq (United Nations Sanctions) (Amendment) Order 2011 are also revoked.

An Impact Assessment has not been produced for these Regulations, as they are intended to ensure existing sanctions remain in place following the United Kingdom's withdrawal from the European Union. These Regulations are intended to deliver substantially the same policy

effects as the existing European Union sanctions. An Impact Assessment was, however, produced for the Sanctions and Anti-Money Laundering Act 2018 and can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/653271/Sanctions_and_Anti-Money_Laundering_Bill_Impact_Assessment_18102017.pdf.

Changes to legislation:
There are currently no known outstanding effects for the The Iraq (Sanctions) (EU Exit) Regulations 2020.