STATUTORY INSTRUMENTS

2019 No. 438

EXITING THE EUROPEAN UNION SANCTIONS

The South Sudan (Sanctions) (EU Exit) Regulations 2019

Made - - - - *4th March 2019*

Laid before Parliament *6th March 2019*

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 (c) and (3), 3(1)(a), (b)(ii), (d)(i) and (ii), 4, 5, 9(2)(a), 10(2)(a) and (c), (3) and (4), 11(2) to (9), 13, 15(2)(a) and (b), (3), (4)(b), (5) and (6), 16, 17(2) to (9), 19, 20, 21(1), 54(1) and (2)(a), 56(1) and 62(4) to (6) of, and paragraphs 2(b), 4(b), 5(a)(ii) and (b), 6(a)(ii) and (b), 10(b), 11(a)(ii), 13(b), (h), (k), (l), (m), (n) and (w), 14(a), (f) and (k), 17(a), 19(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 2(2) and 56(1) of that Act, that it is appropriate to do so, makes the following Regulations:

Modifications etc. (not altering text)

C1 Regulations extended (British overseas territories) (with modifications) (31.12.2020 immediately after both S.I. 2020/591 and S.I. 2020/950 have come into force) by The South Sudan (Sanctions) (Overseas Territories) Order 2020 (S.I. 2020/1287), art. 2, Sch. 1, **Sch. 2**; S.I. 2020/1514, regs. 5, **17**

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 South Sudan (Sanctions) (EU Exit) Regulations 2019.

(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 25.3.2019 by S.I. 2019/627, **reg. 6(1)(a)**

Interpretation

2. In these Regulations—

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

"ARCSS" means the Agreement on the Resolution of the Conflict in the Republic of South Sudan done at Addis Ababa on 17 August 2015 [M3];

"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 [M4];

"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 16 of resolution 2206;

"conduct" includes acts and omissions;

[[F1]"director disqualification licence" means a licence under regulation 33A;**]**

"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 South Sudan Regulation" means Council Regulation (EU) No 2015/735 of 7 May 2015, concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014 [M5], as it has effect in EU law;

"resolution 2206" means resolution 2206 (2015) adopted by the Security Council on 3 March 2015;

"resolution 2290" means resolution 2290 (2016) adopted by the Security Council on 31 May 2016;

"resolution 2428" means resolution 2428 (2018) adopted by the Security Council on 13 July 2018;

"R-ARCSS" means the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan done at Addis Ababa on 12 September 2018 [M6];

"serious human rights violation or abuse" means a serious violation or abuse of any of the human rights specified in regulation 4(2)(f);

"trade licence" means a licence under regulation 34;

"Treasury licence" means a licence under regulation 33(1);

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

Textual Amendments

F1 Words in reg. 2 inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(2)**

Commencement Information

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

I4 Reg. 2 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(b)**

Marginal Citations

M3 A copy of the text of the Agreement on the Resolution of the Conflict in the Republic of South Sudan is available online at https://peacemaker.un.org/node/2676.

M4 1979 c.2. Amendments have been made to this Act and are cited, where relevant, in respect of the applicable regulations.

M5 OJ L 117 8.5.2015, p.13.

M6 A copy of the text of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan is available online at https://www.jmecsouthsudan.com/index.php/arcss-2015/igad-hlrf-agreement.

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) **[**[F2]In this regulation**]** a "relevant prohibition" means any prohibition imposed by—

(a) regulation 9(2) (confidential information),

(b) Part 3 (Finance),

(c) Part 5 (Trade), or

(d) 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 7 (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.

Textual Amendments

F2 Words in reg. 3(3) substituted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(2)**; S.I. 2020/1514, reg. 5

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Purposes

4.—(1) The regulations contained in this instrument that are made under section 1 of the Act have the following purposes—

(a) compliance with the relevant UN obligations, and

(b) the additional purposes mentioned in paragraph (2).

(2) Those additional purposes are—

(a) promoting the peace, stability and security of South Sudan,

(b) encouraging the resolution of the political crisis and armed conflicts in South Sudan, including the implementation of the ARCSS and R-ARCSS,

(c) promoting the effective delivery of the mandates of the regional or international monitoring and peace-support missions and mechanisms in South Sudan, including—

(i) the Ceasefire Transitional Security Arrangements Monitoring and Verification Mechanism [M7],

(ii) the Revitalised Joint Monitoring and Evaluation Commission [M8], and

(iii) the United Nations Mission in South Sudan [M9],

(d) promoting respect for humanitarian assistance activities in South Sudan,

(e) promoting compliance with the rules of international humanitarian law applicable to the armed conflicts in South Sudan, and

(f) promoting respect for human rights in South Sudan, including, in particular, respect for—

(i) the right to life of persons in South Sudan;

(ii) the right of persons in South Sudan not to be held in slavery or required to perform forced or compulsory labour;

(iii) the right of persons not to be subjected to torture or cruel, inhuman or degrading treatment or punishment in South Sudan, including in the context of—

(aa) violence against persons on the basis of their ethnicity,

(bb) rape and other forms of sexual and gender-based violence, or

(cc) recruitment or use of children as soldiers;

(iv) the right to liberty and security of persons in South Sudan, including freedom from arbitrary arrest, detention or enforced disappearance,

(v) the right to a fair trial of persons charged with criminal offences in South Sudan;

(vi) the rights of journalists, human rights defenders, civil society activists and other persons in South Sudan to freedom of expression and peaceful assembly;

(vii) the enjoyment of rights and freedoms in South Sudan without discrimination, including on the basis of a person's sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status,

otherwise than by compliance with the relevant UN obligations.

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

(a) the obligations that the United Kingdom has by virtue of paragraph 12 of resolution 2206 (asset-freeze) [M10] to take the measures required by that provision in respect of persons [M11] for the time being named for the purposes of that provision by the Security Council or the Committee;

(b) the obligations that the United Kingdom has by virtue of paragraph 12 of resolution 2206 (asset-freeze) 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 12 of resolution 2206;

(c) the obligations that the United Kingdom has by virtue of paragraph 4 of resolution 2428 (arms embargo).

(4) In this regulation, any reference to the obligations that the United Kingdom has by virtue of paragraph 12 of resolution 2206 (asset-freeze) is to that provision read with—

(a) paragraphs 6 to 8 of resolution 2206;

(b) paragraphs 8 to 10 of resolution 2290;

(c) paragraphs 13 to 17 of resolution 2428.

Commencement Information

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

I8 Reg. 4 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(c)**

Marginal Citations

M7 The Ceasefire Transitional Security Arrangements Monitoring Mechanism (CTSAMM) was established under Chapter II (Permanent ceasefire and transitional security arrangements) of the Agreement on the Resolution of the Conflict in the Republic of South Sudan done at Addis Ababa on 17 August 2015; it was restructured and reconstituted as the Ceasefire Transitional Security Arrangements Monitoring and Verification Mechanism (CTSAMVM) under Chapter II of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan done at Addis Ababa on 12 September 2018.

M8 The Joint Monitoring and Evaluation Commission (JMEC) was established under Chapter VII (Joint Monitoring and Evaluation Commission) of the Agreement on the Resolution of the Conflict in the Republic of South Sudan done at Addis Ababa on 17 August 2015, and reconstituted as the Revitalised Joint Monitoring and Evaluation Commission (RJMEC) under Chapter VII of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan done at Addis Ababa on 12 September 2018.

M9 The United Nations Mission in South Sudan (UNMISS) was established under paragraph 1 of resolution 1996 (2011) adopted by the Security Council on 8 July 2011; its mandate was most recently extended by paragraph 5 of resolution 2406 (2018) adopted by the Security Council on 15 March 2018.

M10 The asset-freezing measures provided for in paragraph 12 of resolution 2206 have been renewed by paragraph 1 of resolution 2271 (2016) adopted by the Security Council on 2 March 2016, paragraph 1 of resolution 2280 (2016) adopted by the Security Council on 7 April 2016, paragraph 7 of resolution 2290 (2016) adopted by the Security Council on 31 May 2016, paragraph 1 of resolution 2353 (2017) adopted by the Security Council on 24 May 2017, paragraph 1 of resolution 2418 (2018) adopted by the Security Council on 31 May 2018 and paragraph 12 of resolution 2428 adopted by the Security Council on 13 July 2018.

M11 "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.

PART 2

Designation of persons

Power to designate persons

5.—(1) The Secretary of State may designate persons by name for the purposes of any of the following—

(a) regulations 12 to 16 (Finance); [F3]...

[[F4](aa) regulation 17A (Director disqualification sanctions);**]**

(b) regulation 18 (Immigration).

(2) The Secretary of State may designate different persons for the purposes of **[**[F5]different provisions mentioned in**]** paragraph (1).

Textual Amendments

F3 Word in reg. 5(1) omitted (5.6.2024) by virtue of The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(3)(a)**

F4 Reg. 5(1)(aa) inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(3)(b)**

F5 Words in reg. 5(2) substituted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(3)**; S.I. 2020/1514, reg. 5

Commencement Information

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

I10 Reg. 5 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(d)**

Criteria for designating a person

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

(a) has reasonable grounds to suspect that that person is an involved person, and

(b) considers that the designation of that person is appropriate, having regard to—

(i) the purposes stated in regulation 4, and

(ii) the likely significant effects of the designation on that person (as they appear to the Secretary of State to be on the basis of the information that the Secretary of State has).

(2) In this regulation an "involved person" means a person who—

(a) is or has been involved in a relevant activity,

(b) is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved,

(c) is acting on behalf of or at the direction of a person who is or has been so involved, or

(d) is a member of, or associated with, a person who is or has been so involved.

(3) In this regulation a "relevant activity" means—

(a) the commission of a serious human rights violation or abuse in South Sudan;

(b) the commission of a violation of international humanitarian law in South Sudan;

(c) a breach of the ARCSS or R-ARCSS;

(d) an attack against, or obstruction of the activities of, diplomatic personnel in South Sudan or the regional or international monitoring and peace-support missions and mechanisms mentioned in paragraphs (i) to (iii) of regulation 4(2)(c);

(e) obstruction of the delivery or distribution of, or access to, humanitarian assistance in South Sudan;

(f) the misappropriation of South Sudanese state funds, or taking action that may lead to such misappropriation;

(g) the illicit exploitation of oil or any other natural resource in South Sudan;

(h) any other action, policy or activity which threatens the peace, stability and security of South Sudan or undermines efforts to resolve the political crisis and armed conflicts in South Sudan.

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

(a) being responsible for, engaging in, providing support for, or promoting, any such activity;

(b) providing financial services, or making available funds or economic resources, that could contribute to any such activity;

(c) being involved in the supply to South Sudan of military goods or military technology or of material related to such goods or technology, or in providing financial services relating to such supply;

(d) being involved in the supply to South Sudan of goods or technology which could contribute to any such activity, or in providing financial services relating to such supply;

(e) being involved in assisting the contravention or circumvention of any relevant provision.

(5) In this regulation "relevant provision" means—

(a) any provision of Part 3 (Finance) or Part 5 (Trade);

(b) any provision of the law of a country other than the United Kingdom made for purposes corresponding to a purpose of any provision of Part 3 (Finance) or Part 5 (Trade);

(c) any provision of resolution 2206 or 2428.

(6) Nothing in any sub-paragraph of paragraph (3) or (4) is to be taken to limit the meaning of any of the other sub-paragraphs of those paragraphs.

(7) In this regulation, "military goods" and "military technology" have the meanings given by Part 5.

Commencement Information

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

I12 Reg. 6 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(e)**

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[F6]... whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.

Textual Amendments

F6 Reg. 7(4): comma omitted (31.12.2020 immediately after IP completion day) by virtue of The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(4)**; S.I. 2020/1514, **reg. 5**

Commencement Information

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

I14 Reg. 7 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(f)**

Notification and publicity where designation power used

8.—(1) Paragraph (2) applies where the Secretary of State—

(a) has made a designation under regulation 5, or

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

(2) The Secretary of State—

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

(b) must take steps to publicise the designation, variation or revocation.

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

(4) In this regulation a "statement of reasons", in relation to a designation, means a brief statement of the matters that the Secretary of State knows, or has reasonable grounds to suspect, in relation to the designated person which have led the Secretary of State to make the designation.

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

(a) in the interests of national security or international relations,

(b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or

(c) in the interests of justice.

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

(a) unless one or more of the restricted publicity conditions is met, be steps to publicise generally—

(i) the designation, variation or revocation, and

(ii) in the case of a designation, the statement of reasons;

(b) if one or more of those conditions is met, be steps to inform only such persons as the Secretary of State considers appropriate of the designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons.

(7) The "restricted publicity conditions" are as follows—

(a) the designation is of a person believed by the Secretary of State to be an individual under the age of 18;

(b) the Secretary of State considers that disclosure of the designation, variation or revocation should be restricted—

(i) in the interests of national security or international relations,

(ii) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or

(iii) in the interests of justice.

(8) Paragraph (9) applies if—

(a) when a designation is made, one or more of the restricted publicity conditions is met, but

(b) at any time when the designation has effect, it becomes the case that none of the restricted publicity conditions is met.

(9) The Secretary of State must—

(a) take such steps as are reasonably practicable to inform the designated person that none of the restricted publicity conditions is now met, and

(b) take steps to publicise generally the designation and the statement of reasons relating to it.

Commencement Information

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

I16 Reg. 8 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(g)**

Confidential information in certain cases where designation power used

9.—(1) Where the Secretary of State in accordance with regulation 8(6)(b) informs only certain persons of a designation, variation or revocation and (in the case of a designation) of the contents

of the statement of reasons, the Secretary of State may specify that any of that information is to be treated as confidential.

(2) A person ("P") who—

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

(b) otherwise obtains such information,

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

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

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

(a) the disclosure is by, or is authorised by, the Secretary of State,

(b) the disclosure is by or with the consent of the person who is or was the subject of the designation,

(c) the disclosure is necessary to give effect to a requirement imposed under or by virtue of these Regulations or any other enactment, or

(d) the disclosure is required, under rules of court, tribunal rules or a court or tribunal order, for the purposes of legal proceedings of any description.

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

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

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

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

(b) the Secretary of State,

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

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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Designation of persons named by or under UN Security Council Resolutions

10.—(1) Each person for the time being named for the purposes of paragraph 12 of resolution 2206 by the Security Council or the Committee is a designated person for the purposes of regulations 12 to 16 (asset-freeze etc) (whose purposes include compliance with the UN obligations mentioned in regulation 4(3)(a) [M12]).

(2) Nothing in this regulation affects the power under regulation 5 to designate persons (in addition to those designated by this regulation) for the purposes of regulations 12 to 16.

Commencement Information

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

I20 Reg. 10 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(h)**

Marginal Citations

M12 Section 13 of the Sanctions and Anti-Money Laundering Act 2018 requires that where the purposes of a provision 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 regulation mentioned in regulation 10), the regulations must provide for those persons to be designated persons for the purposes of that provision.

PART 3

Finance

Meaning of "designated person" in Part 3

11.—(1) In this Part a "designated person" means—

(a) a person who is designated under regulation 5 for the purposes of regulations 12 to 16 (asset-freeze etc), or

(b) a person who is a designated person for the purposes of those regulations by reason of regulation 10.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Asset-freeze in relation to designated persons

12.—(1) A person ("P") must not deal with 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 6 (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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Making funds available to designated person

13.—(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 6 (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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Making funds available for benefit of designated person

14.—(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 6 (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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Making economic resources available to designated person

15.—(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 6 (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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Making economic resources available for benefit of designated person

16.—(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 6 (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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Circumventing etc prohibitions

17.—(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 12 to 16, 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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

[F7PART 3A

Director disqualification sanctions

Textual Amendments

F7 Pt. 3A inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(4)**

Director disqualification sanctions

17A. A person who is designated under regulation 5 (power to designate persons) for the purposes of this regulation is a person subject to director disqualification sanctions for the purposes of—

(a) section 11A of the Company Directors Disqualification Act 1986, and

(b) Article 15A of the Company Directors Disqualification (Northern Ireland) Order 2002.]

PART 4

Immigration

Immigration

18. A person who is designated under regulation 5 for the purposes of this regulation is an excluded person for the purposes of section 8B of the Immigration Act 1971 [M13].

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M13 1971 c. 77. Section 8B was inserted by the Immigration and Asylum Act 1999 (c.33), **section 8** and amended by the Immigration Act 2016 (c.19), **section 76**; and the Sanctions and Anti-Money Laundering Act 2018, section 59 and Schedule 3, Part 1.

PART 5

Trade

CHAPTER 1

Interpretation

Definition of "military goods" and "military technology"

19. In this Part—

"military goods" means—

(a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008 [M14], 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.

Commencement Information

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

I38 Reg. 19 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(i)**

Marginal Citations

M14 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; and S.I. 2018/939. 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

20.—(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;

"technical assistance", in relation to goods or technology, means—

(a) technical support relating to the repair, development, production, assembly, testing, use or maintenance of the goods or technology, or

(b) any other technical service relating to the goods or technology;

"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" South Sudan if the person is—

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

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

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

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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 2

Military goods and military technology

Export of military goods

21.—(1) The export of military goods to, or for use in, South Sudan is prohibited.

(2) Paragraph (1) is subject to Part 6 (Exceptions and licences).

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Supply and delivery of military goods

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

(2) Paragraph (1) is subject to Part 6 (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 South Sudan.

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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Making military goods and military technology available

23.—(1) A person must not—

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

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

(2) Paragraph (1) is subject to Part 6 (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 South Sudan;

(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 South Sudan.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Transfer of military technology

24.—(1) A person must not—

(a) transfer military technology to a place in South Sudan;

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

(2) Paragraph (1) is subject to Part 6 (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 South Sudan;

(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 South Sudan.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Technical assistance relating to military goods and military technology

25.—(1) A person must not directly or indirectly provide technical assistance relating to military goods or military technology—

(a) to a person connected with South Sudan, or

(b) for use in South Sudan.

(2) Paragraph (1) is subject to Part 6 (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 South Sudan;

(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 South Sudan.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Financial services and funds relating to military goods and military technology

26.—(1) A person must not directly or indirectly provide, to a person connected with South Sudan, financial services in pursuance of or in connection with an arrangement whose object or effect is—

(a) the export of military goods,

(b) the direct or indirect supply or delivery of military goods,

(c) directly or indirectly making military goods or military technology available to a person,

(d) the transfer of military technology, or

(e) the direct or indirect provision of technical assistance relating to military goods or military technology.

(2) A person must not directly or indirectly make funds available to a person connected with South Sudan in pursuance of or in connection with an arrangement mentioned in paragraph (1).

(3) A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—

(a) the export of military goods to, or for use in, South Sudan,

(b) the direct or indirect supply or delivery of military goods to a place in South Sudan,

(c) directly or indirectly making military goods or military technology available—

(i) to a person connected with South Sudan, or

(ii) for use in South Sudan,

(d) the transfer of military technology—

(i) to a person connected with South Sudan, or

(ii) to a place in South Sudan, or

(e) the direct or indirect provision of technical assistance relating to military goods or military technology—

(i) to a person connected with South Sudan, or

(ii) for use in South Sudan.

(4) Paragraphs (1) to (3) are subject to Part 6 (Exceptions and licences).

(5) A person who contravenes a prohibition in any of paragraphs (1) to (3) commits an offence, but—

(a) it is a defence for a person charged with an offence of contravening paragraph (1) or (2) ("P") to show that P did not know and had no reasonable cause to suspect that the person was connected with South Sudan;

(b) it is a defence for a person charged with an offence of contravening a prohibition in paragraph (3) to show that the person did not know and had no reasonable cause to suspect

that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

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

27.—(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 South Sudan,

(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 South Sudan, or

(ii) to a place in South Sudan,

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

(i) to a person connected with South Sudan, or

(ii) to a place in South Sudan,

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

(i) to a person connected with South Sudan, or

(ii) to a place in South Sudan,

(e) the direct or indirect provision, in a non-UK country, of technical assistance relating to military goods or military technology—

(i) to a person connected with South Sudan, or

(ii) for use in South Sudan,

(f) the direct or indirect provision, in a non-UK country, of financial services—

(i) to a person connected with South Sudan, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(1), or

(ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(3),

(g) directly or indirectly making funds available, in a non-UK country, to a person connected with South Sudan, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(1), or

(h) the direct or indirect provision of funds from a non-UK country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(3).

(2) Paragraph (1) is subject to Part 6 (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—

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

"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 South Sudan, and

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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 3

Enabling or facilitating the conduct of armed hostilities

Enabling or facilitating the conduct of armed hostilities

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

(a) technical assistance,

(b) armed personnel,

(c) financial services or funds, or

(d) brokering services provided in relation to an arrangement whose object or effect is to provide, in a non-UK country, anything mentioned in sub-paragraphs (a) to (c),

where such provision enables or facilitates the conduct of armed hostilities in South Sudan.

(2) Paragraph (1) is subject to Part 6 (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 provision as mentioned in paragraph (1) would enable or facilitate the conduct of armed hostilities in South Sudan.

(4) In this regulation—

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

"technical assistance" means the provision of technical support or any other technical service.

(5) Nothing in this regulation is to be taken to limit the meaning of any of the prohibitions contained in Chapter 2.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 4

Further provision

Circumventing etc prohibitions

29.—(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Defences

30.—(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 6

Exceptions and licences

Finance: exceptions from prohibitions

31.—(1) The prohibition in regulation 12 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—

(a) is held by P, and

(b) is not held jointly with the designated person.

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

(a) is not the designated person, and

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

(3) The prohibitions in regulations 12 to 14 (asset-freeze in relation to, and making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account with interest or other earnings due on the account.

(4) The prohibitions in regulations 13 and 14 (making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account where it receives funds transferred to that institution for crediting to that account.

(5) The prohibitions in regulations 13 and 14 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 12 to 14 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 [M15],

(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000 [M16], 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 Part 3 (Finance);

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

"relevant institution" means a person that has permission under Part 4A of the Financial Services and Markets Act 2000 [M17] (permission to carry on regulated activity).

(8) The definition of "relevant institution" in paragraph (7) is to be read with section 22 of the Financial Services and Markets Act 2000 [M18], any relevant order under that section [M19] and Schedule 2 to that Act [M20].

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M15 2000 c.8. Section 142D was inserted by the Financial Services (Banking Reform) Act 2013 (c.33), **section 4(1)**.

M16 Section 142A was inserted by the Financial Services (Banking Reform) Act 2013, section 4(1).

M17 Part 4A was inserted by the Financial Services Act 2012 (c.21), **section 11(2)** and amended by S.I. 2018/135.

M18 Section 22 was amended by the Financial Guidance and Claims Act 2018 (c.10), **section 27(4)**; the Financial Services Act 2012, section 7(1); and S.I. 2018/135.

M19 S.I. 2001/544 as most recently amended by S.I. 2018/1288 and prospectively amended by S.I. 2018/1403.

M20 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; and S.I. 2013/1881; and it is prospectively amended by S.I. 2018/135.

[[F8]Finance: humanitarian exception

31ZA.—(1) The prohibitions in regulations 12 to 16 (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 12 to 16;

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

Textual Amendments

F8 Reg. 31ZA inserted (9.2.2023) by The Sanctions (Humanitarian Exception) (Amendment) Regulations 2023 (S.I. 2023/121), regs. 1(2), **4(2)**

[[F9]Exception for authorised conduct in a relevant country

31A.—(1) Where a person's conduct in a relevant country would, in the absence of this regulation, contravene a prohibition in any of regulations 12 to 16 (asset-freeze etc.) or Chapters 2 and 3 of Part 5 (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.**]**

Textual Amendments

F9 Reg. 31A inserted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020 (S.I. 2020/950), regs. 1(2), **4(2)**; S.I. 2020/1514, reg. 17

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

32.—(1) Where an act would, in the absence of this paragraph, be prohibited by the prohibition in regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance) or 5 (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 7 (Information and records) or Part 9 (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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Treasury licences

33.—(1) The prohibitions in regulations 12 to 16 (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 by a particular person in relation to a non-UN designated person only where the Treasury consider that it is appropriate to issue the licence for a purpose set out in **[**[F10]Part 2 or 3 of**]** Schedule 2.

(3) The Treasury may issue a licence which authorises acts in relation to a UN designated person only where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 2 **[**[F11]or 2A**]** of Schedule 2.

(4) In this regulation "UN designated person" means—

(a) a person who is a designated person for the purposes of regulations 12 to 16 by reason of regulation 10 (designation of persons named by or under UN Security Council resolutions), or

(b) a person who is designated under regulation 5 (power to designate persons) for the purposes of regulations 12 to 16 and whose designation is (in the opinion of the Secretary of State) required by a provision mentioned in regulation 4(3).

Textual Amendments

F10 Words in reg. 33(2) inserted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020 (S.I. 2020/950), regs. 1(2), **4(3)(a)**; S.I. 2020/1514, reg. 17

F11 Words in reg. 33(3) inserted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020 (S.I. 2020/950), regs. 1(2), **4(3)(b)**; S.I. 2020/1514, reg. 17

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

[F12Director disqualification licences

33A. The Secretary of State may issue a licence in relation to any person who is designated under regulation 5 for the purposes of regulation 17A (director disqualification sanctions) providing that the prohibitions in—

(a) section 11A(1) of the Company Directors Disqualification Act 1986, and

(b) Article 15A(1) of the Company Directors Disqualification (Northern Ireland) Order 2002,

do not apply to anything done under the authority of that licence.**]**

Textual Amendments

F12 Reg. 33A inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(5)**

Trade licences

34. The prohibitions in Chapters 2 and 3 of Part 5 (Trade) do not apply to anything done under the authority of a licence issued by the Secretary of State under this regulation.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Licences: general provisions

35.—(1) This regulation applies in relation to Treasury licences **[**F13, director disqualification 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.

Textual Amendments

F13 Words in reg. 35(1) inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(6)**

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Finance: licensing offences

36.—(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

[[F14]Director disqualification: licensing offences

36A.—(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 director disqualification licence (whether for P or anyone else).

(2) A person who purports to act under the authority of a director disqualification 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.**]**

Textual Amendments

F14 Reg. 36A inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(7)**

Trade: licensing offences

37.—(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

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

38.—(1) The Secretary of State may direct that, in relation to any person within regulation 18 whose name is specified, or who is of a specified description, section 8B(1) and (2) of the Immigration Act 1971, or section 8B(3) of that Act, have effect subject to specified exceptions.

(2) A direction under this regulation—

(a) may contain conditions;

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

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

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

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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 7

Information and records

Finance: reporting obligations

39.—(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 36 (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 31(4) (finance: exceptions from prohibitions), or

(b) transfers funds from a frozen account in accordance with regulation 31(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 31;

"relevant firm" is to be read in accordance with regulation 40;

"relevant institution" has the same meaning as it has in regulation 31.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

"Relevant firm"

40.—(1) The following are relevant firms for the purposes of regulation 39—

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

(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) [M21], or

(ii) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit) [M22];

(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) [M23];

(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.

[[F15](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 [M24], 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.

[[F16](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) is 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 39(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) [M25];

(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

F15 Reg. 40(1)(h)(i) inserted (30.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(3)(c), **4(2)(a)**

F16 Reg. 40(3A)-(3C) inserted (30.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(3)(c), **4(2)(b)**

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M21 2006 c.46.

M22 2014 c.2.

M23 2005 c.19.

M24 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 Enterprise and Regulatory Reform Act 2013 (c.24), **section 70**; S.I. 1991/2684; S.I. 2000/121 and S.I. 2001/1283.

M25 Section 1210 was amended by S.I. 2008/565; S.I. 2008/567; 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.

Finance: powers to request information

41.—(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 39 (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 36 (finance: licensing offences) or 39 (finance: reporting obligations).

(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Finance: production of documents

42.—(1) A request under regulation 41 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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Finance: information offences

43.—(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 41 (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 41 (finance: powers to request information) or 42 (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 41 (finance: powers to request information) or 42 (finance: production of documents).

(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Trade: application of information powers in CEMA

44.—(1) Section 77A of CEMA [M26] 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 [M27] 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 5 (Trade) except the prohibition in regulation 21(1), or

(b) the prohibition in regulation 29 (circumventing etc prohibitions).

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M26 Section 77A was inserted by the Finance Act 1987 (c.16), **section 10** and amended by S.I. 1992/3095.

M27 S.I. 1991/2724 is amended by S.I. 1992/3095; S.I. 1993/3014; and S.I. 2011/1043 and is prospectively revoked by S.I. 2018/1247.

General trade licences: records

45.—(1) This regulation applies in relation to a person ("P") who does any act authorised by a general licence issued under **[**[F17]regulation 34**]** (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.

Textual Amendments

F17 Words in reg. 45 substituted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(5)**; S.I. 2020/1514, reg. 5

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

General trade licences: inspection of records

46.—(1) A person authorised by the Secretary of State or the Commissioners (an "official") may at any reasonable hour enter premises notified under regulation 45(4) for the purposes of monitoring compliance with, or detecting evasion of, regulation 45(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 45, 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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Disclosure of information

47.—(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 6 (Exceptions and licences), this Part or Part 9 (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), **[**[F18]Part 3A (Director disqualification sanctions),**]** Part 5 (Trade), or

(ii) any exception or licence under Part 6 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) any purpose stated in regulation 4;

(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 mentioned in regulation 21(1) (export of military goods), or

(iii) in relation to a monetary penalty under section 146 of the Policing and Crime Act 2017 (breach of financial sanctions legislation) [M28];

(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 [M29];

(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) considers 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 6 includes—

(i) a licence or authorisation which 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.

Textual Amendments

F18 Words in reg. 47(1)(b)(i) inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(8)**

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M28 2017 c.3.

M29 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.

[[F19]Finance: disclosure to the Treasury

47A.—(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

F19 Reg. 47A inserted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **4(3)**

Part 7: supplementary

48.—(1) A disclosure of information under regulation 47 **[**[F20]or 47A**]** does not breach any restriction on such disclosure imposed by statute or otherwise.

(2) But nothing in **[**[F21]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 [M30].

(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) **[**[F22]Regulations 47 and 47A do**]** not limit the circumstances in which information may be disclosed apart from **[**[F23]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) [M31];

"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

F20 Words in reg. 48(1) inserted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **4(4)(a)**

F21 Words in reg. 48(2) substituted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **4(4)(b)**

F22 Words in reg. 48(4) substituted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **4(4)(c)(i)**

F23 Words in reg. 48(4) substituted (9.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(2), **4(4)(c)(ii)**

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M30 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; S.I. 2018/652 and S.I. 2018/1123. Saving provisions are made by S.I. 2017/859.

M31 2018 c.12. There are amendments to this Act that are not relevant to these Regulations.

PART 8

Enforcement

Penalties for offences

49.—(1) A person who commits an offence under any provision of Part 3 (Finance) or regulation 36 (finance: licensing offences), is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding **[**[F24]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 5 (Trade) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding **[**[F25]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 regulation 9(6) (confidentiality), **[**[F26]36A (director disqualification: licensing offences),**]** 37, 45(6) or 46(5) (offences in connection with trade licences) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding **[**[F27]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 39(6) or 43 (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 **[**[F28]2nd May 2022**]** the reference in each of paragraphs (1)(a), (2)(a) and (3)(a) to **[**[F29]the general limit in a magistrates' court**]** is to be read as a reference to 6 months.

Textual Amendments

F24 Words in reg. 49(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**

F25 Words in reg. 49(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**

F26 Words in reg. 49(3) inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(9)**

F27 Words in reg. 49(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**

F28 Words in reg. 49(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**

F29 Words in reg. 49(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Liability of officers of bodies corporate etc

50.—(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Jurisdiction to try offences

51.—(1) Where an offence under Part 3 (Finance), regulation 9(6) (confidentiality), regulation 36 (finance: licensing offences) or regulation 39(6) or 43 (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) [M32].

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M32 1995 c.46.

Procedure for offences by unincorporated bodies

52.—(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 [M33] and Schedule 3 to the Magistrates' Courts Act 1980 [M34];

(ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 [M35] and Article 166 of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981 [M36].

(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M33 1925 c.86 as 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.

M34 1980 c.43. Amendments have been made to Schedule 3 that are not relevant to these Regulations.

M35 1945 c.15 (N.I.).

M36 S.I. 1981/1675 (N.I. 26).

Time limit for proceedings for summary offences

53.—(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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Trade enforcement: application of CEMA

54.—(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 [M37].

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

(a) Part 5 (Trade),

(b) regulation 37 (trade: licensing offences),

(c) regulation 45(6) (general trade licences: records), or

(d) regulation 46(5) (general trade licences: inspection of records).

[[F30](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 regulation 28(3) (enabling or facilitating the conduct of armed hostilities).

(3C) Paragraph (3A) also applies to the suspected commission of a relevant offence under any of regulations 37(1) or (2), 45(6) and 46(5) insofar as—

(a) the suspected offence relates to a licence issued under regulation 34 (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 29(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 [M38] (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 [M39], 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 [M40] (legal proceedings).

Textual Amendments

F30 Reg. 54(3A)-(3D) inserted (5.6.2024) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/644), regs. 1(2), **4(10)**

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M37 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)**.

M38 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; and S.I. 2007/288.

M39 "The customs and excise Acts" is defined in section 1 of CEMA.

M40 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, Schedule 4, paragraph 23(a); and S.I. 2014/834. Section 147 was amended by the Criminal Justice Act 1982 (c. 48), **Schedule 14**, paragraph 42; the Finance Act 1989, section 16(2); and the Criminal Justice Act 2003, Schedule 3, paragraph 50. Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraph 26, and Schedule 5. Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule, 4, paragraph 27, and Schedule 5.

Trade offences in CEMA: modification of penalty

55.—(1) Paragraph (2) applies where a person is guilty of an offence under section 68(2) of CEMA in connection with a prohibition mentioned in regulation 21(1).

(2) Where this paragraph applies, the reference to 7 years in section 68(3)(b) of CEMA [M41] is to be read as a reference to 10 years.

(3) Paragraph (4) applies where a person is guilty of an offence under section 170(2) of CEMA in connection with a prohibition mentioned in regulation 21(1).

(4) Where this paragraph applies, the reference to 7 years in section 170(3)(b) of CEMA [M42] is to be read as a reference to 10 years.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M41 The words "7 years" were inserted in section 68(3)(b) of CEMA by the Finance Act 1988, section 12.

M42 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

56. Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (investigatory powers) [M43] applies to any offence under Part 3 (Finance) or regulation 36 (finance: licensing offences).

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M43 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 17(4)** and Schedule 8, paragraphs 157 and 159; the Criminal Finances Act 2017 (c.22), **section 51(1)**; the Act, section 59(4) and Schedule 3, paragraph 4; and S.I. 2014/823.

Monetary penalties

57. 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 [M44]—

(a) regulation 23(1)(a) (making military goods and military technology available);

(b) regulation 24(1)(b) (transfer of military technology);

(c) regulation 26(1) and (2) (financial services and funds relating to military goods and military technology);

(d) regulation 27(1)(f)(i) and (g) (brokering services relating to financial services and funds relating to military goods and military technology);

(e) regulation 28(1) (enabling or facilitating the conduct of armed hostilities).

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M44 See section 143(4)(f) and (4A), as inserted by the Act, Schedule 3, paragraph 8(1) and (3).

PART 9

Maritime enforcement

Exercise of maritime enforcement powers

58.—(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) the prohibition in regulation 21(1) (exports of military goods);

(b) a prohibition in regulation 22(1) (supply and delivery of military goods);

(c) a prohibition in regulation 23(1)(a) or (b) (making of military goods and military technology available);

(d) a prohibition in regulation 24(1)(a) or (b) (transfer of military technology)**[**[F31]**;]**

[[F32](e) a prohibition imposed by a condition of a trade licence in relation to a prohibition mentioned in any of sub-paragraphs (a) to (d).**]**

(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 60 and 61.

(5) This regulation is subject to regulation 62 (restrictions on exercise of maritime enforcement powers).

Textual Amendments

F31 Reg. 58(2): semicolon substituted for full stop (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(6)(a)**; S.I. 2020/1514, reg. 5

F32 Reg. 58(2)(e) inserted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(6)(b)**; S.I. 2020/1514, reg. 5

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Maritime enforcement officers

59.—(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 [M45]);

(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 [M46], 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 [M47],

(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 [M48];

(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 [M49], or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964 [M50];

(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) [M51];

(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 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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M45 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 (Northern Ireland) Act 2000 (c.32), **section 78(2)**; the Police Reform Act 2002 (c.30), **section 79(3)**; and S.I. 2013/602.

M46 2012 asp.8

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M47 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**, paragraphs 22 and 26.

M48 1847 c.27.

M49 2013 c.23.

M50 1964 c.40. Section 16 has been amended by various instruments but none are relevant to these Regulations.

M51 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.

Power to stop, board, search etc

60.—(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 61, 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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Seizure power

61.—(1) This regulation applies if a maritime enforcement officer is lawfully on a relevant ship (whether in exercise of the powers conferred by regulation 60 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 60(3)(a)(ii).

(3) 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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Restrictions on exercise of maritime enforcement powers

62.—(1) The authority of the Secretary of State is required before any maritime enforcement power is exercised in reliance on regulation 58 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 58(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 [M52] or a UN Security Council Resolution otherwise permits the exercise of the power in relation to the ship.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M52 Cmnd 8941.

Interpretation of Part 9

63.—(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 **[**[F33]regulation 58(2)(a) to (e)**]**.

Textual Amendments

F33 Words in reg. 63(2) substituted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(7)**; S.I. 2020/1514, reg. 5

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 10

Supplementary and final provision

Notices

64.—(1) This regulation applies in relation to a notice required by regulation 35 (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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 20 of the Export Control Order 2008

65. Article 20 of the Export Control Order 2008 (embargoed destinations) is not to be taken to prohibit anything prohibited by Part 5 (Trade).

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Trade: overlapping offences

66. 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, and

(b) any provision of Part 5 (Trade) or regulation 37 (trade: licensing offences), 45(6) or 46(5) (information offences in connection with general trade licences).

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Revocations

67.—(1) Council Regulation (EU) No 2015/735 of 7 May 2015, concerning restrictive measures in respect of the situation in South Sudan and repealing Regulation (EU) No 748/2014 is revoked.

(2) The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015 [M53] are revoked.

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M53 S.I. 2015/1361 as amended by S.I. 2017/560; S.I. 2017/754; S.I. 2018/682 and S.I. 2018/1149.

Amendments

68.—(1) [M54]The Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 are amended as follows—

(a) in regulation 3—

(i) in paragraph (1)—

(aa) in the definition of "EU authorisation", omit "or Article 3 of the South Sudan Regulation".

[F34(bb) omit the definition of "the South Sudan Regulation";]

[F35(ii) omit paragraphs (4) and (5).]

(b) in the heading to Part 2, for "and the South Sudan Regulations" substitute " Regulation ";

(c) regulation 5 is omitted;

(d) in regulation 7(a), omit ", Article 2 of the South Sudan Regulation";

(e) in paragraphs (2) and (3)(a) of regulation 11, omit ", the South Sudan Regulation".

(2) In the Schedule to the United Nations and European Union Financial Sanctions (Linking) Regulations 2017 [M55], omit the following row from the table—

"United Nations Security Council Resolution 2206 (2015)	Council Regulation (EU) 2015/735 of 7th May 2015 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No. 748/2014."

Textual Amendments

F34 Reg. 68(1)(a)(i)(bb) substituted (1.10.2019) by The Export Control (Sanctions) (Amendment) Order 2019 (S.I. 2019/1236), arts. 1(2), **8(a)**

F35 Reg. 68(1)(a)(ii) substituted (1.10.2019) by The Export Control (Sanctions) (Amendment) Order 2019 (S.I. 2019/1236), arts. 1(2), **8(b)**

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M54 S.I. 2014/3258, as amended by S.I. 2015/97 and S.I. 2015/1546.

M55 S.I. 2017/478, to which there are amendments not relevant to these Regulations.

Transitional provision: Treasury licences

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

(a) was granted, or deemed to be granted, by the Treasury under regulation 9 of the 2015 Regulations,

(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 [F36which 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 33(1) (Treasury licences).

(3) Any reference in an existing financial sanctions licence to the 2015 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 2015 Regulations,

(b) the EU South Sudan Regulation, or

(c) Council Regulation (EU) No 748/2014 of 10 July 2014 concerning restrictive measures in respect of the situation in South Sudan [M56],

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 2015 Regulations was made before the relevant date,

(b) the application is for the authorisation of conduct which would (on an 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 33(1) (Treasury licences).

(7) In paragraphs (3) and (4), a reference to the 2015 Regulations is to be treated as including a reference to the South Sudan (European Union Financial Sanctions) Regulations 2014 [M57].

(8) In this regulation—

"the 2015 Regulations" means the South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015;

"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.

Textual Amendments

F36 Words in reg. 69(2) inserted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(8)**; S.I. 2020/1514, reg. 5

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M56 OJ L 203 11.7.2014, p.13.

M57 S.I. 2014/1827, as amended by the Wales Act 2014 c.29. These regulations were revoked and replaced by S.I. 2015/1361.

Transitional provision: trade licences

70.—(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 5 (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 34 (trade licences)—

(a) disapplying every provision of Part 5 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, [F37]...

[[F38](aa) is not an existing trade licence, and**]**

(b) authorises an act—

(i) which would otherwise be prohibited by the EU South Sudan Regulation, and

(ii) which would (on and after the relevant date, and in the absence of paragraphs (4) to (6)) be prohibited by Part 5 (Trade),

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 34.

(5) Any reference in an existing trade sanctions licence to a provision of the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 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 South Sudan Regulation is to be treated on and after the relevant date as a reference to the corresponding prohibition in Part 5 (Trade).

(7) In this regulation, "the relevant date" means—

(a) where regulations under section 56 of the Act provide that Part 5 comes into force at a specified time on a day, that time on that day;

(b) otherwise, the date on which Part 5 comes into force.

Textual Amendments

F37 Word in reg. 70(3) omitted (31.12.2020 immediately after IP completion day) by virtue of The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(9)(a)**; S.I. 2020/1514, reg. 5

F38 Reg. 70(3)(aa) inserted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(9)(b)**; S.I. 2020/1514, reg. 5

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Transitional provision: pending applications for trade licences

71.—(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 5 (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 34 (trade licences).

(3) Paragraph (4) applies where—

(a) an application was made before the relevant date for a licence or authorisation under the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 or the EU South Sudan Regulation,

(b) the application is for authorisation of an act prohibited by Part 5 (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 34.

(5) In this regulation, "the relevant date" means—

(a) where regulations under section 56 of the Act provide that Part 5 comes into force at a specified time on a day, that time on that day;

(b) otherwise, the date on which Part 5 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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Transitional provisions: prior obligations

72.—(1) Where—

(a) a person was named in Annex II of the EU South Sudan Regulation immediately before the relevant date, and

(b) the person is a designated person immediately before the relevant date,

any reference in a provision mentioned in paragraph (3) to the date on which a person became a designated person is a reference to the original listing date.

(2) Where, immediately before the relevant date, a person was named by the Security Council or the Committee for the purposes of paragraph 12 of resolution 2206, any reference in a provision mentioned in paragraph (3) 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) The provisions referred to in paragraphs (1) and (2) are—

(a) regulation 31(5) (finance: exceptions from prohibitions), and

(b) paragraphs 6(b)(i) and 7(a) of Schedule 2 (Treasury licences: purposes).

(4) In this regulation—

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

"original listing date" means—

(a) where the person was named in Annex I of Council Regulation (EU) No 748/2014 of 10 July 2014 concerning restrictive measures in respect of the situation in South Sudan immediately before the repeal of that Regulation, the date on which that person was named in Annex I of that Regulation;

(b) otherwise, the date on which the person was named in Annex II of the EU South Sudan Regulation.

"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

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. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Mark Field
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

I145 Sch. 1 para. 1 not in force at made date, see reg. 1(2)

I146 Sch. 1 para. 1 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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

I147 Sch. 1 para. 2 not in force at made date, see reg. 1(2)

I148 Sch. 1 para. 2 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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

I149 Sch. 1 para. 3 not in force at made date, see reg. 1(2)

I150 Sch. 1 para. 3 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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

I151 Sch. 1 para. 4 not in force at made date, see reg. 1(2)

I152 Sch. 1 para. 4 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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

I153 Sch. 1 para. 5 not in force at made date, see reg. 1(2)

I154 Sch. 1 para. 5 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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

I155 Sch. 1 para. 6 not in force at made date, see reg. 1(2)

I156 Sch. 1 para. 6 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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

I157 Sch. 1 para. 7 not in force at made date, see reg. 1(2)

I158 Sch. 1 para. 7 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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

I159 Sch. 1 para. 8 not in force at made date, see reg. 1(2)

I160 Sch. 1 para. 8 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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

I161 Sch. 1 para. 9 not in force at made date, see reg. 1(2)

I162 Sch. 1 para. 9 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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
I163 Sch. 1 para. 10 not in force at made date, see reg. 1(2)
I164 Sch. 1 para. 10 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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
I165 Sch. 1 para. 11 not in force at made date, see reg. 1(2)
I166 Sch. 1 para. 11 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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
I167 Sch. 1 para. 12 not in force at made date, see reg. 1(2)
I168 Sch. 1 para. 12 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

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 [M58]

(b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989 [M59], 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

I169 Sch. 1 para. 13 not in force at made date, see reg. 1(2)

I170 Sch. 1 para. 13 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

Marginal Citations

M58 1986 c.45.

M59 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

I171 Sch. 1 para. 14 not in force at made date, see reg. 1(2)

I172 Sch. 1 para. 14 in force at 25.3.2019 by S.I. 2019/627, **reg. 6(1)(j)**

SCHEDULE 2 — Regulation 33

Treasury licences: purposes

PART 1

Interpretation

Interpretation

1. In this Schedule—

"consular post" has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24 April 1963 [M60], and any reference to the functions of a consular post is to be read in accordance with that Convention;

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

"diplomatic mission", and any reference to the functions of a diplomatic mission, are to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961 [M61];

"frozen funds or economic resources" means funds or economic resources frozen by virtue of regulation 12, 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

I173 Sch. 2 para. 1 not in force at made date, see reg. 1(2)

I174 Sch. 2 para. 1 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M60 United Nations Treaty Series, vol. 596, p. 261.

M61 United Nations Treaty Series, vol. 500, p. 95.

PART 2

Purposes

Basic needs

2.—(1) To enable the basic needs of a designated person, or (in the case of an individual) any dependent family member of such a person, to be met.

(2) In the case of an individual in sub-paragraph (1), "basic needs" includes—

(a) medical needs;

(b) needs for—

(i) food;

(ii) **[**[F39]payment**]** of insurance premiums;

(iii) **[**[F40]payment**]** of tax;

(iv) rent or mortgage payments;

(v) utility payments.

(3) In the case of a person other than an individual in sub-paragraph (1), "basic needs" includes needs for—

(a) payment of insurance premiums;

(b) payment of reasonable fees for the provision of property management services;

(c) payment of remuneration, allowances or pensions of employees;

(d) payment of tax;

(e) rent or mortgage payments;

(f) utility payments.

(4) 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.

Textual Amendments

F39 Word in Sch. 2 para. 2(2)(b)(ii) substituted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(10)**; S.I. 2020/1514, reg. 5

F40 Word in Sch. 2 para. 2(2)(b)(iii) substituted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), regs. 1(2), **4(10)**; S.I. 2020/1514, reg. 5

Commencement Information

I175 Sch. 2 para. 2 not in force at made date, see reg. 1(2)

I176 Sch. 2 para. 2 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Legal services

3. 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

I177 Sch. 2 para. 3 not in force at made date, see reg. 1(2)

I178 Sch. 2 para. 3 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Maintenance of frozen funds and economic resources

4. 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

I179 Sch. 2 para. 4 not in force at made date, see reg. 1(2)

I180 Sch. 2 para. 4 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Extraordinary expenses

5. To enable an extraordinary expense of a designated person to be met.

Commencement Information

I181 Sch. 2 para. 5 not in force at made date, see reg. 1(2)

I182 Sch. 2 para. 5 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Pre-existing judicial decisions etc

6. 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 the date on which the person became a designated person, 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

I183 Sch. 2 para. 6 not in force at made date, see reg. 1(2)

I184 Sch. 2 para. 6 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

[[F41]PART 2A

Purposes relating only to UN designated persons

Textual Amendments

F41 Sch. 2 Pt. 2A inserted (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020 (S.I. 2020/950), regs. 1(2), **4(4)(a)**; S.I. 2020/1514, reg. 17

Prior obligations

6A. To enable, by the use of a designated person's frozen funds or economic resources, the satisfaction of an obligation of that person arising under a contract, provided that—

(a) the obligation arose before the date on which the person became a designated person, and

(b) no payments are made to another designated person, whether directly or indirectly.**]**

PART 3

[[F42]Purposes relating only to non-UN designated persons]

Textual Amendments

F42 Sch. 2 Pt. 3 heading omitted and re- inserted before para. 7 (31.12.2020 immediately after IP completion day) by The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020 (S.I. 2020/950), regs. 1(2), **4(4)(b)(c)**; S.I. 2020/1514, reg. 17

Prior obligations

7. To enable, by the use of a designated person's frozen funds or economic resources, the satisfaction of an obligation of that person (whether arising under a contract, other agreement or otherwise), provided that—

(a) the obligation arose before the date on which the person became a designated person, and

(b) no payments are made to another designated person, whether directly or indirectly.

Commencement Information

I185 Sch. 2 para. 7 not in force at made date, see reg. 1(2)

I186 Sch. 2 para. 7 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Diplomatic missions

8. To enable anything to be done in order that the functions of a diplomatic mission or consular post in South Sudan or of an international organisation enjoying immunities in accordance with international law may be carried out.

Commencement Information

I187 Sch. 2 para. 8 not in force at made date, see reg. 1(2)

I188 Sch. 2 para. 8 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Extraordinary situation

9. To enable anything to be done to deal with an extraordinary situation.

Commencement Information

I189 Sch. 2 para. 9 not in force at made date, see reg. 1(2)

I190 Sch. 2 para. 9 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

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 South Sudan for the purposes of compliance with the United Kingdom's United Nations obligations and promoting the peace, security and stability of South Sudan and related purposes. Following the United Kingdom's withdrawal from the European Union, these Regulations also replace the European Union sanctions regime in relation to the situation in South Sudan, implemented via an EU Council Decision and Regulation.

The Regulations confer a power on the Secretary of State to designate persons who are, or have been, involved in the obstruction of the political process in South Sudan or the commission of serious human rights violations or abuses in South Sudan. Designated persons may be excluded from the United Kingdom and may be made subject to financial sanctions, including having their funds and/or economic resources frozen. These Regulations also impose trade restrictions on military goods and technology.

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 imposed. Schedule 2 to these 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.

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 (EU) No 2015/735 of 7 May 2015 concerning restrictive measures in respect of the situation in South Sudan and repealing Regulation (EU) No 748/2014 is revoked by these Regulations. The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015 are also revoked, and certain provisions of the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 are amended, by these Regulations.

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 South Sudan (Sanctions) (EU Exit) Regulations 2019.