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STATUTORY INSTRUMENTS

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**2019 No. 461**

**The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019**

**PART 1**

**General**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Iran (Sanctions) (Nuclear) (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.

**Interpretation**

2. In these Regulations—

“the Act” means the Sanctions and Anti-Money Laundering Act 2018;

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

“CEMA” means the Customs and Excise Management Act 1979<sup>(1)</sup>;

“the Committee” means the Committee of the Security Council established under paragraph 18 of resolution 1737;

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“conduct” includes acts and omissions;

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

“the EU Iran Regulation” means Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 <sup>(2)</sup> as it has effect in EU law;

“the Joint Comprehensive Plan of Action” means the document attached as Annex A to resolution 2231;

“non-UN designated person” means a person who is designated under regulation 5 for the purposes of regulations 12 to 17;

“resolution 1737” means resolution 1737 adopted by the Security Council on 23 December 2006;

“resolution 2231” means resolution 2231 adopted by the Security Council on 20 July 2015;

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(1) 1979 c.2. Amendments have been made to this Act and are cited, where relevant, in respect of the applicable regulations.

(2) OJ L 088 24.3.2012, p. 1

“trade licence” means a licence under regulation 41;

“Treasury licence” means a licence under regulation 40(1).

### **Application of prohibitions and requirements outside the United Kingdom**

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

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

(3) In paragraphs (1) and (2) a “relevant prohibition” means any prohibition imposed—

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

(b) by Part 3 (Finance),

(c) by Part 5 (Trade), or

(d) by 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) imposed 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

(8) In this regulation, “United Kingdom person” has the same meaning as in section 21 of the Act.

### **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 abandonment by Iran of nuclear weapons programmes,

(b) restricting the ability of Iran to develop nuclear weapons and nuclear weapons delivery systems, and

(c) promoting implementation of the Joint Comprehensive Plan of Action,

otherwise than by compliance with the relevant UN obligations.

(3) In this regulation “the relevant UN obligations” means—

(a) the obligation that the United Kingdom has by virtue of paragraph 7(b) of, and paragraph 6(c) of Annex B to, resolution 2231 (asset-freeze etc) to take the measures required by that provision in respect of persons<sup>(3)</sup> for the time being named for the purposes of that provision by the Security Council or the Committee;

(3) “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.

- (b) the obligations that the United Kingdom has by virtue of paragraph 7(b) of, and paragraphs 2, 4, 5 and 6 (a), (b) and (d) to (f) of Annex B to, resolution 2231.

## 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 17 (asset-freeze etc);
- (b) regulation 19 (immigration).

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

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

(3) Any reference in this regulation to being involved in a relevant nuclear 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, or facilitating, a relevant nuclear activity;
- (b) providing financial services<sup>(4)</sup>, or making available funds or economic resources<sup>(5)</sup>, that could contribute to a relevant nuclear activity;
- (c) being involved in the supply to Iran of restricted goods or restricted technology, or in providing financial services relating to such supply; or
- (d) being involved in assisting the contravention or circumvention of any relevant provision.

(4) In this regulation—

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(4) “financial services” is defined in section 61 of the Act.

(5) “funds” and “economic resources” are defined in section 60 of the Act.

“relevant nuclear activity” means—

- (a) the proliferation or development of nuclear weapons in, or for use in, Iran, or an activity that could lead to the development of nuclear weapons in, or for use in, Iran, or
- (b) the development of a nuclear weapon delivery system in, or for use in, Iran;

“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 or 5, or
- (c) any provision of resolution 2231;

“restricted goods” and “restricted technology” have the same meaning as they have in Chapter 1 of Part 5.

(5) Nothing in any sub-paragraph of paragraph (3) is to be taken to limit the meaning of any of the other sub-paragraphs of that paragraph.

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

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

- (2) The first condition is that P—
  - (a) holds directly or indirectly more than 50% of the shares in C,
  - (b) holds directly or indirectly more than 50% of the voting rights in C, or
  - (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.
- (3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).

(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and, whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P’s wishes.

#### **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.

### **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.

### **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 6(c) of Annex B to resolution 2231 by the Security Council or the Committee is a designated person for the purposes of regulations 12 to 17 (asset-freeze etc) (whose purposes include compliance with the UN obligation mentioned in regulation 4(3)(a))(6).

(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 17.

## **PART 3**

### **Finance**

#### **Meaning of “designated person” in Part 3**

- 11.** In this Part a “designated person” means—
- (a) a person who is designated under regulation 5 for the purposes of regulations 12 to 17, or
  - (b) a person who is a designated person for the purposes of those regulations by reason of regulation 10.

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(6) Section 13 of the Act 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 regulations 12 to 17), the regulations must provide for those persons to be designated persons for the purposes of that provision. In the case of regulations 12 to 17, those persons include any person in relation to whom the measures set out in paragraph 6(c) of Annex B to resolution 2231 are required to be taken (see section 62(2) of the Act).

### **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.

### **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.

### **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.

#### **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.

#### **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.

#### **Financial messaging services**

**17.—(1)** A person (“P”) must not provide specialised financial messaging services to a designated person if P knows or has reasonable cause to suspect that P is providing such services to a designated person.

- (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) In paragraph (1), “specialised financial messaging services” means specialised services enabling credit or financial institutions to electronically transmit messages effecting financial transactions or containing information about financial transactions.

#### **Circumventing etc prohibitions**

**18.—(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 17, or
  - (b) to enable or facilitate the contravention of any such prohibition.
- (2) A person who contravenes the prohibition in paragraph (1) commits an offence.

## PART 4

### Immigration

#### **Immigration**

19. 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(7).

## PART 5

### Trade

#### CHAPTER 1

##### Exports to Iran and related activities

#### **Meaning of “restricted goods” and “restricted technology” in this Chapter**

20. In this Chapter—

“restricted goods” means—

- (a) military goods,
- (b) missile-list goods,
- (c) nuclear-list goods,
- (d) graphite and relevant metals,
- (e) other restricted goods;

“restricted technology” means—

- (a) military technology,
- (b) missile-list technology,
- (c) nuclear-list technology,
- (d) other restricted technology,
- (e) relevant enterprise resource planning software.

#### **Export of restricted goods to, or for use in, Iran**

21.—(1) The export of restricted goods to, or for use in, Iran is prohibited.

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

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(7) 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 Act, section 59 and Schedule 3, Part 1.

**Supply and delivery of restricted goods from a third country to Iran**

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

(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 Iran.

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

**Making available restricted goods and restricted technology**

23.—(1) A person must not—

- (a) directly or indirectly make restricted goods or restricted technology available to a person connected with Iran;
- (b) directly or indirectly make restricted goods or restricted technology available for use in Iran.

(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 Iran;
- (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 Iran.

**Transfer of restricted technology to a place in Iran or a person connected with Iran**

24.—(1) A person must not—

- (a) transfer restricted technology to a place in Iran;
- (b) transfer restricted technology to a person connected with Iran.

(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 Iran;
- (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 Iran.

**Technical assistance relating to restricted goods and restricted technology**

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

- (a) to a person connected with Iran, or
- (b) for use in Iran.

(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 Iran;
  - (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 Iran.

### **Financial services and funds relating to restricted goods and restricted technology**

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

- (a) the export of restricted goods,
- (b) the direct or indirect supply or delivery of restricted goods,
- (c) directly or indirectly making restricted goods or restricted technology available to a person,
- (d) the transfer of restricted technology, or
- (e) the direct or indirect provision of technical assistance relating to restricted goods or restricted technology.

(2) A person must not directly or indirectly make funds available to a person connected with Iran 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 restricted goods to, or for use in, Iran,
- (b) the direct or indirect supply or delivery of restricted goods to a place in Iran,
- (c) directly or indirectly making restricted goods or restricted technology available—
  - (i) to a person connected with Iran, or
  - (ii) for use in Iran,
- (d) the transfer of restricted technology—
  - (i) to a person connected with Iran, or
  - (ii) for use in Iran,
- (e) the direct or indirect provision of technical assistance relating to restricted goods—
  - (i) to a person connected with Iran, or
  - (ii) for use in Iran.

(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 Iran;
- (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.

**Brokering services: non-UK activity relating to restricted goods and restricted 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 restricted goods from a third country to a place in Iran;
- (b) directly or indirectly making restricted goods available in a third country for direct or indirect supply or delivery—
  - (i) to a person connected with Iran, or
  - (ii) to a place in Iran;
- (c) directly or indirectly making restricted technology available in a third country for transfer—
  - (i) to a person connected with Iran, or
  - (ii) to a place in Iran;
- (d) the transfer of restricted technology from a place in a third country—
  - (i) to a person connected with Iran, or
  - (ii) to a place in Iran;
- (e) the direct or indirect provision, in a non-UK country, of technical assistance relating to restricted goods or restricted technology—
  - (i) to a person connected with Iran, or
  - (ii) for use in Iran;
- (f) the direct or indirect provision, in a non-UK country, of financial services—
  - (i) to a person connected with Iran, 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 Iran, 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—

“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;

“non-UK country” means a country that is not the United Kingdom or the Isle of Man;

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

(5) For the purposes of this regulation, the definition of “country” in section 62(1) of the Act does not apply.

## CHAPTER 2

### Imports from Iran and related activities

#### **Import of certain goods from Iran**

**28.**—(1) The import of the following goods, where they are consigned from Iran, is prohibited—

- (a) arms and related materiel;
- (b) missile-list goods;
- (c) nuclear-list goods;
- (d) other restricted goods.

(2) The import of the goods mentioned in paragraph (1), where they originate in Iran, is prohibited.

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

(4) In this regulation, “arms and related materiel” means—

- (a) military goods;
- (b) any goods from time to time falling with Chapter 93 of the Harmonized Commodity Description and Coding System, other than military goods.

(5) In the definition of “arms and related materiel”, “the Harmonized Commodity Description and Coding System” means the harmonized commodity description and coding system provided for under the International Convention on the Harmonized Commodity Description and Coding System as done in Brussels on 14 June 1983<sup>(8)</sup>.

#### **Supply and delivery of certain goods to a third country from a place in Iran**

**29.**—(1) A person must not directly or indirectly supply or deliver the following goods from a place in Iran to a third country—

- (a) military goods;
- (b) missile-list goods;
- (c) nuclear-list goods;
- (d) other restricted goods.

(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 the offence of contravening paragraph (1) to show that the person did not know and had no reasonable cause to suspect that the supply or delivery was from a place in Iran, whether directly or indirectly.

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<sup>(8)</sup> United Nations Treaty Series, vol. 1503, p.3.

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

#### **Acquisition of certain goods and technology which are located in Iran**

**30.**—(1) A person must not directly or indirectly acquire relevant goods and technology which are located in Iran.

(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 the offence of contravening paragraph (1) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Iran.

(4) In this regulation, “relevant goods and technology” means—

- (a) goods mentioned in regulation 29(1);
- (b) military technology;
- (c) missile-list technology;
- (d) nuclear-list technology;
- (e) other restricted technology.

#### **Transfer of certain technology from a place in Iran**

**31.**—(1) A person must not transfer relevant technology to persons outside the United Kingdom or to a place outside the United Kingdom, where the transfer is from a place in Iran.

(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 the offence of contravening paragraph (1) to show that the person did not know and had no reasonable cause to suspect that the transfer was from a place in Iran.

(4) In this regulation, “relevant technology” means—

- (a) military technology;
- (b) missile-list technology;
- (c) nuclear-list technology;
- (d) other restricted technology.

### **CHAPTER 3**

#### **Other trade restrictions relation to Iran**

#### **Arrangements relating to uranium mining and certain restricted goods and technology**

**32.**—(1) A person must not enter into an arrangement with a relevant person (“P”) where the object or effect of that arrangement is to enable P to participate in, or increase P’s participation in—

- (a) a commercial activity involving uranium mining;
- (b) a commercial activity involving the production or use of nuclear-list goods falling within paragraph (2) or nuclear-list technology falling within paragraph (2);
- (c) a commercial activity involving missile-list goods or missile-list technology;
- (d) a commercial activity involving the production of military goods or military technology; or
- (e) a commercial activity involving other restricted goods or other restricted technology.

(2) Nuclear-list goods and nuclear-list technology fall within this paragraph if they are specified from time to time in the International Atomic Energy Agency document mentioned in regulation 34(2)(a)(i) or in any different version of that document as mentioned in regulation 34(2)(b).

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

(4) A person who contravenes a prohibition in paragraph (1) commits an offence but it is a defence to show that the person did not know and had no reasonable cause to suspect that the arrangement was an arrangement mentioned in that paragraph.

(5) In this regulation—

“arrangement” includes the acceptance of a loan or credit from a relevant person;

“commercial activity” means an activity which is carried on for a commercial purpose;

“participation” includes participation independently or as part of a joint venture or partnership (and “participate” is to be construed accordingly);

“relevant person” means—

(a) a person connected with Iran;

(b) any person acting on behalf of, or at the direction of, a person connected with Iran.

(6) Nothing in this regulation is to be taken to limit the meaning of any prohibition in Chapter 1 or 2.

### **Services in relation to certain ships and aircraft**

**33.**—(1) A person must not provide—

(a) bunkering or ship supply services in relation to a ship owned or controlled, directly or indirectly, by a person connected with Iran, where the ship is carrying relevant restricted items;

(b) engineering or maintenance services in relation to a cargo aircraft owned or controlled, directly or indirectly, by a person connected with Iran, where the aircraft is carrying relevant restricted items.

(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—

(a) that the ship or aircraft in question was owned or controlled, directly or indirectly, by a person connected with Iran; or

(b) that the ship or aircraft in question was carrying relevant restricted items.

(4) In this regulation—

“bunkering or ship supply services” includes—

(a) the supply of goods for use in a ship including fuel and spare parts, whether or not for immediate use, and

(b) any other servicing of a ship;

“relevant restricted items” means any military goods, military technology, missile-list goods or missile-list technology which have been, or are being, dealt with in contravention of a prohibition—

(a) in any of regulations 21 to 24 (trade prohibitions relating to restricted goods and restricted technology),

- (b) in any of regulations 28 to 31 (import, supply, transfer etc of goods and technology from Iran), or
  - (c) imposed by a condition of a trade licence in relation to a prohibition mentioned in paragraph (i) or (ii);
- “ship” and “aircraft” have the meanings given in paragraph 37 of Schedule 1 to the Act.

## CHAPTER 4

### Interpretation of this Part and further provision

#### Interpretation of this Part

##### 34.—(1) In this Part—

“graphite and relevant metals” means any thing falling within Annex VIIB to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010, as it had effect immediately before exit day, other than any thing for the time being falling within Annex # to Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;

“military goods” means—

- (a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008(9), 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;

“missile-list goods” means any thing specified in Security Council document S/2015/546, other than any thing which is missile-list technology;

“missile-list technology” means any thing specified in Security Council document S/2015/546 which is described as software or technology;

“nuclear-list goods” means any thing for the time being specified in a relevant International Atomic Energy Agency list, other than any thing which is nuclear-list technology;

“nuclear-list technology” means any thing for the time being specified in a relevant International Atomic Energy Agency list and which is described as software or technology;

“other restricted goods” means any thing falling within Part II.A (goods) of Annex II to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010, as it had effect immediately before exit day;

“other restricted technology” means any thing falling within Part II.B (technology) of Annex II to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010, as it had effect immediately before exit day;

“relevant enterprise resource planning software” means software used for financial accounting, management accounting, human resources, manufacturing, supply chain management, project management, customer relationship management, data services, or access control, and which is specifically designed for use in nuclear and military industries;

“technical assistance”, in relation to goods or technology, means—

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(9) S.I. 2008/3231. Schedule 2 was substituted by S.I. 2017/85 and subsequently amended by S.I. 2017/697 and S.I. 2018/165. There are other instruments which amend other parts of the Order.



- (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;
- “technology” has the meaning given in paragraph 37 of Schedule 1 to the Act;  
“transfer” has the meaning given in paragraph 37 of Schedule 1 to the Act.
- (2) For the purposes of the definitions of “nuclear-list goods” and “nuclear-list technology”, a thing is “specified in a relevant International Atomic Energy Agency list” if—
- (a) the thing is specified in either of the following International Atomic Energy Agency documents—
    - (i) INFCIRC/254/Rev.12/Part 1;
    - (ii) INFCIRC/254/Rev.9/Part 2; or
  - (b) where a different version of document INFCIRC/254/Part 1 or document INFCIRC/254/Part 2 is published on the United Nations website for the purposes of paragraph 2(a) of Annex B to resolution 2231, the thing is specified in such a version.
- (3) For the purposes of this Part a person is to be regarded as “connected with” Iran if the person is—
- (a) the Government of Iran or a public authority of the Government of Iran,
  - (b) an individual who is, or an association or combination of individuals who are, ordinarily resident in Iran,
  - (c) an individual who is, or an association or combination of individuals who are, located in Iran,
  - (d) a person, other than an individual, which is incorporated or constituted under the law of Iran,
  - (e) a person, other than an individual, which is domiciled in Iran, or
  - (f) a person, other than an individual, which is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person within any of sub-paragraphs (a) to (e).
- (4) In this Part any reference to the United Kingdom includes a reference to the territorial sea.

### **Circumventing etc prohibitions**

**35.**—(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 Chapters 1 to 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.

### **Defences**

**36.**—(1) Paragraph (2) applies where a person relies on a defence under Chapters 1 to 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.

## PART 6

### Exceptions and licences

#### Finance: exceptions from prohibitions

**37.**—(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(10),
- (b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000(11), 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(12) (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(13), any relevant order under that section(14) and Schedule 2 to that Act(15).

(10) 2000 c.8. Section 142D was inserted by the Financial Services (Banking Reform) Act 2013 (c.33), section 4(1).

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

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

(13) 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.

(14) S.I. 2001/544 amended by S.I. 2018/1288 and prospectively amended by S.I. 2018/1403.

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

**38.**—(1) Where an act would, in the absence of this paragraph, be prohibited by the prohibition in regulation 9(2) or any prohibition in Part 3 (Finance) or Part 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 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.

### **Exception relating to services provided to certain ships and aircraft**

**39.** The prohibition in regulation 33 (services in relation to certain ships and aircraft) is not contravened in circumstances where failing to do something prohibited by that regulation in relation to a ship or aircraft would endanger the lives of persons on board that ship or aircraft.

### **Treasury licences**

**40.**—(1) The prohibitions in regulations 12 to 17 (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 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 1 of Schedule 2.

(4) In paragraph (3) “UN designated person” means a person who is a designated person for the purposes of regulations 12 to 17 by reason of regulation 10 (designation of persons named by or under UN Security Council Resolutions).

### **Trade licences**

**41.** The prohibitions in Chapters 1 to 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.

### **Licences: general provisions**

**42.**—(1) This regulation applies in relation to Treasury licences and trade licences.

(2) A licence must specify the acts authorised by it.

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(15) 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.

(3) A licence may be general or may authorise acts by a particular person or persons of a particular description.

(4) A licence may —

- (a) contain conditions;
- (b) be of indefinite duration or a defined duration.

(5) A person who issues a licence may vary, revoke or suspend it at any time.

(6) A person who issues, varies, revokes or suspends a licence which authorises acts by a particular person must give written notice to that person of the issue, variation, revocation or suspension of the licence.

(7) A person who issues, varies, revokes or suspends a general licence or a licence which authorises acts by persons of a particular description must take such steps as that person considers appropriate to publicise the issue, variation, revocation or suspension of the licence.

#### **Finance: licensing offences**

**43.**—(1) A person (“P”) commits an offence if P knowingly or recklessly—

- (a) provides information that is false in a material respect, or
- (b) provides or produces a document that is not what it purports to be,

for the purpose of obtaining a Treasury licence (whether for P or anyone else).

(2) A person who purports to act under the authority of a Treasury licence but who fails to comply with any condition of the licence commits an offence.

#### **Trade: licensing offences**

**44.**—(1) A person (“P”) commits an offence if P knowingly or recklessly—

- (a) provides information that is false in a material respect, or
- (b) provides or produces a document that is not what it purports to be,

for the purpose of obtaining a trade licence (whether for P or anyone else).

(2) A person who purports to act under the authority of a trade licence but who fails to comply with any condition of the licence commits an offence.

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

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

**45.**—(1) The Secretary of State may direct that, in relation to any person within regulation 19 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.

## PART 7

### Information and records

#### **Finance: reporting obligations**

- 46.**—(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 43 (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 37(4) (finance: exceptions from prohibitions), or
  - (b) transfers funds from a frozen account in accordance with regulation 37(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 37;
  - “relevant firm” is to be read in accordance with regulation 47;
  - “relevant institution” has the same meaning as it has in regulation 37.

#### **“Relevant firm”**

- 47.**—(1) The following are relevant firms for the purposes of regulation 46—
- (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)(**16**), or
    - (ii) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit)(**17**);
  - (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)(**18**);
  - (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.
- (2) In paragraph (1)(d)(iv) “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(**19**), but as if references in that section to disposing of or acquiring an interest in land

**(16)** 2006 c.46.**(17)** 2014 c.2.**(18)** 2005 c.19.**(19)** 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.

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.

(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 46(1)(b), 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)(**20**);
- (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.

#### **Finance: powers to request information**

**48.**—(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)(b), 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.

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(20) 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.

(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 46 (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 43 (finance: licensing offences) or 46 (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.

### **Finance: production of documents**

**49.**—(1) A request under regulation 48 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).

#### **Finance: information offences**

**50.**—(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 48 (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 48 (finance: powers to request information) or 49 (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 48 (finance: powers to request information) or 49 (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.

#### **Trade: application of information powers in CEMA**

**51.**—(1) Section 77A of CEMA(21) 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(22) 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—

- (a) which would, unless done under the authority of a trade licence, constitute a contravention of a prohibition in Chapters 1 to 3 of Part 5 (Trade), except any prohibition on imports or exports, or
- (b) which would constitute a contravention of the prohibition in regulation 35 (circumventing etc prohibitions).

#### **General trade licences: records**

**52.**—(1) This regulation applies in relation to a person (“P”) who does any act authorised by a general licence issued under regulation 41 (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;

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

(22) 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.

- (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.

#### **General trade licences: inspection of records**

- 53.**—(1) A person authorised by the Secretary of State or the Commissioners (an “official”) may at any reasonable hour enter premises notified under regulation 52(4) for the purposes of monitoring compliance with, or detecting evasion of, a contravention under regulation 52(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 52(2), 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.

#### **Disclosure of information**

- 54.**—(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), 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) the exercise of functions under these Regulations;
  - (b) any purpose stated in regulation 4;
  - (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) or 28(1)(exports and imports of restricted goods), or
    - (iii) in relation to a monetary penalty under section 146 of the Policing and Crime Act 2017 (breach of financial sanctions legislation)(23);
  - (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(24);
  - (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;

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(23) 2017 c.3.

(24) Section 1(8) of the Act defines an “international obligation” as an obligation of the United Kingdom created or arising by or under any international agreement.

- (h) the Council of the European Union, the European Commission or the European External Action Service;
  - (i) the Government of any country;
  - (j) any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information.
- (4) Information referred to in paragraph (1) may be disclosed to any person with the consent of a person who, in their own right, is entitled to the information.
- (5) In paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.
- (6) In paragraph (1)(b)—
- (a) the reference to information includes information obtained at a time when any provision of these Regulations is not in force, and
  - (b) the reference to a licence under Part 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.

### **Part 7: supplementary**

- 55.**—(1) A disclosure of information under regulation 54 does not breach any restriction on such disclosure imposed by statute or otherwise.
- (2) But nothing in that regulation 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<sup>(25)</sup>.
- (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) Regulation 54 does not limit the circumstances in which information may be disclosed apart from that regulation.
- (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)<sup>(26)</sup>;
- “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.

(25) 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.

(26) 2018 c.12. There are amendments to this Act that are not relevant to these Regulations.

## PART 8

### Enforcement

#### Penalties for offences

**56.**—(1) A person who commits an offence under any provision of Part 3 (Finance) or regulation 43 (finance: licensing offences), is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months 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 12 months 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), 44 (Trade: licensing offences), 52(6) or 53(5) (offences in connection with trade licences) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months 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 46(6) or 50 (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 section 154(1) of the Criminal Justice Act 2003<sup>(27)</sup> comes into force the reference in each of paragraphs (1)(a), (2)(a) and (3)(a) to 12 months is to be read as a reference to 6 months.

### **Liability of officers of bodies corporate etc**

**57.**—(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.

### **Jurisdiction to try offences**

**58.**—(1) Where an offence under regulation 9(6) (confidentiality), Part 3 (Finance), regulation 43 (finance: licensing offences) or regulation 46(6) or 50 (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)<sup>(28)</sup>.

<sup>(27)</sup> 2003 c.44. Amendments have been made to sections 154(1), but none are relevant to these Regulations.

<sup>(28)</sup> 1995 c.46.

### **Procedure for offences by unincorporated bodies**

**59.**—(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<sup>(29)</sup> and Schedule 3 to the Magistrates’ Courts Act 1980<sup>(30)</sup>;
  - (ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945<sup>(31)</sup> and Article 166 of, and Schedule 4 to, the Magistrates’ Courts (Northern Ireland) Order 1981<sup>(32)</sup>.

(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.

### **Time limit for proceedings for summary offences**

**60.**—(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.

### **Trade enforcement: application of CEMA**

**61.**—(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.

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<sup>(29)</sup> 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.

<sup>(30)</sup> 1980 c.43. Amendments have been made to Schedule 3 that are not relevant to these Regulations.

<sup>(31)</sup> c.15 (N.I.).

<sup>(32)</sup> S.I. 1981/1675 (N.I. 26).

- (2) In paragraph (1) “assigned matter” has the meaning given by section 1(1) of CEMA(33).
- (3) In this regulation a “relevant offence” means an offence under—
- (a) Part 5 (Trade),
  - (b) regulation 44 (trade: licensing offences),
  - (c) regulation 52(6) (general trade licences: records), or
  - (d) regulation 53(5) (general trade licences: inspection of records).
- (4) Section 138 of CEMA(34) (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(35), 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(36) (legal proceedings).

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(33) 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).

(34) 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.

(35) “The customs and excise Acts” is defined in section 1 of CEMA.

(36) 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**

**62.**—(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 28 (import of certain goods from Iran).

(2) Where this paragraph applies, the reference to 7 years in section 68(3)(b) of CEMA(37) 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)(export of restricted goods to, or for use in, Iran).

(4) Where this paragraph applies, the reference to 7 years in section 170(3)(b) of CEMA(38) is to be read as a reference to 10 years.

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

**63.** Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (investigatory powers)(39) applies to any offence under Part 3 (Finance) or regulation 43 (finance: licensing offences).

### **Monetary penalties**

**64.** 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(40)—

- (a) regulation 23(1) (making restricted goods and restricted technology available);
- (b) regulations 24(1) and 31(1) (transfer of certain technology);
- (c) regulation 26(1) to (3) (financial services and funds relating to restricted goods and restricted technology);
- (d) regulation 27(1) (brokering services relating to financial services and funds relating to restricted goods and restricted technology);
- (e) regulation 32(1) (arrangements relating to uranium mining and certain restricted goods and technology).

## **PART 9**

### **Maritime enforcement**

#### **Exercise of maritime enforcement powers**

**65.**—(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

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

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

(39) 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.

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

- (c) a foreign ship in international waters,  
and a ship within sub-paragraph (a), (b) or (c) is referred to in this Part as “a relevant ship”.
- (2) The maritime enforcement powers may be exercised for the purpose of enforcing any of the following—
- (a) a prohibition in any of regulations 21 to 24 (trade prohibitions relating to restricted goods and restricted technology);
  - (b) a prohibition in any of regulations 28 to 31 (import, supply, transfer etc of goods and technology from Iran);
  - (c) a prohibition imposed by a condition of a trade licence in relation to a prohibition mentioned in sub-paragraph (a) or (b).
- (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 67 and 68.
- (5) This regulation is subject to regulation 69 (restrictions on exercise of maritime enforcement powers).

### **Maritime enforcement officers**

- 66.**—(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<sup>(41)</sup>);
  - (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<sup>(42)</sup>, 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<sup>(43)</sup>,
    - (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<sup>(44)</sup>;
  - (e) a constable who is a member of the British Transport Police Force;

<sup>(41)</sup> 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.

<sup>(42)</sup> asp.8.

<sup>(43)</sup> 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.

<sup>(44)</sup> c.27.

- (f) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013<sup>(45)</sup>, or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964<sup>(46)</sup>;
- (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)<sup>(47)</sup>;
- (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.

### **Power to stop, board, search etc**

67.—(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 68, 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.

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<sup>(45)</sup> c.23.

<sup>(46)</sup> c.40. Section 16 has been amended by various instruments but none are relevant to these Regulations.

<sup>(47)</sup> 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.

### Seizure power

**68.**—(1) This regulation applies if a maritime enforcement officer is lawfully on a relevant ship (whether in exercise of the powers conferred by regulation 65 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 67(3)(a)(ii).

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

### Restrictions on exercise of maritime enforcement powers

**69.**—(1) The authority of the Secretary of State is required before any maritime enforcement power is exercised in reliance on regulation 65 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 65(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(48) or a UN Security Council Resolution otherwise permits the exercise of the power in relation to the ship.

### Interpretation of Part 9

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

(2) For the purpose of interpreting any reference to “prohibited goods” or “relevant goods” in this Part, any reference in section 19 or 20 of the Act to a “relevant prohibition or requirement” is to be read as a reference to any prohibition specified in regulation 65(2).

## PART 10

### Supplementary and final provision

#### Notices

**71.**—(1) This regulation applies in relation to a notice required by regulation 42 (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.

### **Article 20 of the Export Control Order 2008**

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

### **Trade: overlapping offences**

73. 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, 35, 37 or 38 of that Order, and
- (b) any provision of Part 5 (Trade) or regulation 44 (trade: licensing offences), 52(6) or 53(5) (offences in connection with record-keeping).

### **Revocations**

74.—(1) Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 is revoked.

- (2) The Iran (European Union Financial Sanctions) Regulations 2016(49) are revoked.
- (3) The Export Control (Iran Sanctions) Order 2016(50) is revoked.

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(49) S.I. 2016/36.

(50) S.I. 2016/503.

(4) The Iran (Financial Sanctions) Order 2007(51) is revoked.

**Transitional provision: Treasury licences**

75.—(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 2016 Regulations(52),
- (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 has effect on and after the relevant date as if it had been issued by the Treasury under regulation 40(1) (Treasury licences).

(3) Any reference in an existing financial sanctions licence to the 2016 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 2016 Regulations, or
- (b) the EU Iran Regulation,

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

(5) Paragraph (6) applies where—

- (a) an application for a licence, or for the variation of a licence, under the 2016 Regulations was made before the relevant date,
- (b) the application is for the authorisation of conduct which would (on and after the relevant date) be prohibited under Part 3, and
- (c) a decision to grant or refuse the application has not been made before that date.

(6) The application is to be treated on and after the relevant date as an application for a licence, or for the variation of a licence (as the case may be), under regulation 40(1) (Treasury licences).

(7) In paragraphs (3) and (4), a reference to the 2016 Regulations is to be treated as including a reference to—

- (a) the Iran (European Community Financial Sanctions) Regulations 2007(53),
- (b) the Iran (European Union Financial Sanctions) Regulations 2010(54), or
- (c) the Iran (European Union Financial Sanctions) Regulations 2012(55).

(8) In this regulation—

“the 2016 Regulations” means the Iran (European Union Financial Sanctions) Regulations 2016;

“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.

(51) [S.I. 2007/281](#)

(52) Regulation 21 of the 2016 Regulations saved licences granted under certain instruments revoked by the 2016 Regulations.

(53) [S.I. 2007/1374](#). These Regulations were revoked by [S.I. 2010/2937](#)

(54) [S.I. 2010/2937](#). These Regulations were revoked by [S.I. 2012/925](#).

(55) [S.I. 2012/925](#). These Regulations were revoked by [S.I. 2016/36](#).

### **Transitional provision: trade licences**

76.—(1) Paragraphs (2) to (4) apply to a 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 the EU Iran Regulation, and
  - (ii) which would (on and after the relevant date, and in the absence of paragraphs (2) to (4)) be prohibited by Part 5 (Trade),and such a licence or authorisation is referred to in this regulation as “an existing trade sanctions licence”.

(2) 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 41 (trade licences).

(3) Any reference in an existing trade sanctions licence to a provision of the Export Control (Iran Sanctions) Order 2016 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).

(4) Any reference in an existing trade sanctions licence to a prohibition in the EU Iran Regulation is to be treated on and after the relevant date as a reference to the corresponding prohibition in Part 5 (Trade).

- (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.

### **Transitional provision: pending applications for trade licences**

77.—(1) Paragraph (2) applies where—

- (a) an application was made before the relevant date for a licence or authorisation under the Export Control (Iran Sanctions) Order 2016 or the EU Iran 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.

(2) The application is to be treated on and after the relevant date as an application for a licence under regulation 41 (trade licences).

- (3) 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.

### **Transitional Provisions: prior obligations**

78.—(1) Where—

- (a) a person was named in Annex #X of the EU Iran 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 to be read as a reference to the date on which the person was named in that Annex.

(2) Where, immediately before the coming into force of regulation 10 (designation of persons named by or under UN Security Council Resolutions), a person was named for the purposes of paragraph 6(c) of Annex B to resolution 2231 by the Security Council or the Committee, 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—

- (a) the date on which the person was named on the list established by the Committee pursuant to resolution 1737, or
- (b) if the person was not named on that list, the date on which the person was otherwise named for the purposes of paragraph 6(c) of Annex B to resolution 2231.

(3) The provisions referred to in paragraphs (1) and (2) are—

- (a) regulation 37(5) (finance: exceptions from prohibitions), and
- (b) paragraphs 5(b)(i) and 6(1)(a) of Schedule 2 (Treasury licences: purposes).

(4) In paragraph (1), the reference to the date on which a person was named in Annex IX of the EU Iran Regulation—

- (a) if the person had previously been named in Annex V of the 2007 EU Iran Regulation, is to be read as the date on which the person was named in that Annex;
- (b) if the person had previously been named in Annex VIII of the 2010 EU Iran Regulation but not in Annex V of the 2007 EU Iran Regulation, is to be read as the date on which the person was named in Annex VIII of the 2010 EU Iran Regulation.

(5) In this regulation—

“the 2007 EU Iran Regulation” means Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran<sup>(56)</sup>;

“the 2010 EU Iran Regulation” means Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007<sup>(57)</sup>;

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

“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.

5th March 2019

*Alan Duncan*  
Minister of State  
Foreign and Commonwealth Office

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<sup>(56)</sup> OJ L 103, 20.4.2007, p. 1.

<sup>(57)</sup> OJ L 281, 27.10.2010, p. 1.