
STATUTORY INSTRUMENTS

2019 No. 855

The Russia (Sanctions) (EU Exit) Regulations 2019

PART 9

Enforcement

Trade enforcement: application of CEMA

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

- (a) whether there are grounds for believing that a relevant offence has been committed, or
- (b) whether a person should be prosecuted for such an offence,

the matter is to be treated as an assigned matter.

(2) In paragraph (1) “assigned matter” has the meaning given by section 1(1) of CEMA ^{M1}.

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

- (a) Part 5 (Trade), [^{F1}except regulation 54D (legal advisory services), but only insofar as the offence under that regulation relates to legal advisory services concerning relevant activity which would be prohibited under any of regulations 11 to 19],

[^{F2}(aa) regulation 67 (finance: licensing offences) but only insofar as the offence under that regulation relates to offences under regulations 46Z9B to 46Z9D (maritime transportation of certain oil and oil products),]

- (b) regulation 68 (trade: licensing offences),
- (c) regulation 76(6) (general trade licences: records), or
- (d) regulation 77(5) (general trade licences: inspection of records).

[^{F3}(3A) The Commissioners may not investigate the suspected commission of a relevant offence listed in paragraph (3B), unless the suspected offence has been the subject of—

- (a) a referral to the Commissioners by—
 - (i) the Secretary of State,
 - (ii) the Treasury, or
 - (iii) OFCOM, where such referral relates to a suspected offence under regulation 54A(4);
- (b) a decision by the Commissioners to treat the suspected offence as if it had been referred to them under sub-paragraph (a).

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

[regulation 24(3) insofar as it relates to the prohibition at regulation 24(1)(c);

^{F4}(za)

(zb) regulation 29A(3);]

- ^{F5}(a)
- ^{F6}(b)
- (c) regulation 41(3);
- (d) regulation 45(3);
- [regulation 46A(4);]
- ^{F7}(da)
- (e) regulation 46B(4) insofar as it relates to the prohibition at regulation 46B(2)(a);
- [regulation 46BA(3) (technical assistance relating to luxury goods) insofar as the technical
- ^{F8}(ea) assistance provided relates to the supply or delivery of luxury goods from a third country to a place in Russia;
- (eb) regulation 46BB(3) (financial services and funds relating to luxury goods) insofar as it relates to the prohibition at—
- (i) regulation 46BB(1)(b) and insofar as the financial services or funds provided relate to the supply or delivery of luxury goods from a third country to a place in Russia;
- (ii) regulation 46BB(1)(c) and insofar as the financial services or funds provided relate to the supply or delivery of luxury goods from a third country to a place in Russia;
- (iii) regulation 46BB(1)(d) and insofar as the financial services or funds provided relate to the provision of technical assistance for the supply or delivery of luxury goods from a third country to a place in Russia;
- (ec) regulation 46BC(4) (brokering services relating to luxury goods) insofar as it relates to the prohibition at—
- (i) regulation 46BC(2)(b) and insofar as the brokering services provided relate to the supply or delivery of luxury goods from a third country to a place in Russia;
- (ii) regulation 46BC(2)(c) and insofar as the brokering services provided relate to the supply or delivery of luxury goods from a third country to a place in Russia;
- (iii) regulation 46BC(2)(d) and insofar as the brokering services provided relate to the provision of technical assistance for the supply or delivery of luxury goods from a third country to a place in Russia;]
- (f) regulation 46F(3);
- (g) regulation 46G(3) insofar as it relates to the prohibition at regulation 46G(1)(c);
- (h) regulation 46H(3) insofar as it relates to the prohibition at regulation 46H(1)(c);
- [regulation 46II(3);]
- ^{F9}(ha)
- (i) regulation 46K(3);
- (j) regulation 46N(4) insofar as it relates to the prohibition at regulation 46N(2)(a);
- [regulation 46XD(3);
- ^{F10}(ja)
- (jb) regulation 46XE(3) insofar as it relates to the prohibition at 46XE(1)(c);
- (jc) regulation 46XF(3) insofar as it relates to the prohibition at 46XF(1)(c);]
- (k) regulation 46Y(4) insofar as it relates to the prohibition at regulation 46Y(2)(a);
- (l) regulation 46Z2(3) insofar as it relates to the prohibitions at regulation 46Z2(1)(e), (f) and (g);
- (m) regulation 46Z9B(8);

- (n) regulation 46Z9B(9);
- (o) regulation 46Z9C(4);
- (p) regulation 46Z9C(5);
- (q) regulation 46Z9D(4);
- (r) regulation 46Z9D(5);
- [regulation 46Z16L(3) insofar as the acquisition does not relate to the import of diamonds^{F11}(ra) or diamond jewellery;
- (rb) regulation 46Z16M(3);
- (rc) regulation 46Z16N(3) insofar as it relates to the prohibitions at regulation 46Z16N(1)(b) and (c);
- (rd) regulation 46Z16O(3) insofar as it relates to the prohibitions at regulation 46Z16O(1)(b) and (c);
- (re) regulation 46Z16P(3) insofar as the brokering services provided relate to any arrangements described in regulation 46Z16O(1)(b) or (c);]
- (s) regulation 46Z30(4) insofar as it relates to the prohibition at regulation 46Z30(2)(a);
- (t) regulation 46Z33(3) insofar as it relates to the prohibitions at regulation 46Z33(1)(e), (f) and (g);
- (u) regulation 49(3);
- (v) regulation 53(3);
- (w) regulation 54(3);
- (x) regulation 54A(4);
- (y) regulation 54C(3);
- (z) regulation 54D(4);
- (z1) regulation 67(1);
- (z2) regulation 67(2).

[^{F12}(3BA) In paragraph (3B)(ea) to (ec), “third country” means a country that is not the United Kingdom, the Isle of Man or Russia.

(3BB) Paragraph (3A) also applies to the suspected commission of a relevant offence under regulation 55(2), insofar as the activity to which the suspected offence relates is the circumvention of, or enabling or facilitation of a contravention of, a prohibition in relation to an offence specified in paragraph (3B).]

(3C) [^{F13}Paragraph (3A)] also applies to the suspected commission of a relevant offence under any of regulations 68(1), [^{F14}68(2),] 76(6) and 77(5) insofar as—

- (a) the suspected offence relates to a licence issued under regulation 65, and
- (b) the prohibited activity authorised by that licence would, if no licence had been issued, amount to an offence specified in paragraph (3B)(a) to (z).]

(4) Section 138 of CEMA^{M2} (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, 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^{M3} (legal proceedings).

Textual Amendments

- F1** Words in reg. 85(3)(a) inserted (30.6.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 3\) Regulations 2023 \(S.I. 2023/713\)](#), regs. 1(2), **8(a)**
- F2** Reg. 85(3)(aa) inserted (5.12.2022) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 16\) Regulations 2022 \(S.I. 2022/1122\)](#), regs. 1(2), **13**
- F3** Reg. 85(3A)-(3C) inserted (30.6.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 3\) Regulations 2023 \(S.I. 2023/713\)](#), regs. 1(2), **8(b)**
- F4** Reg. 85(3B)(za)(zb) inserted (15.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(2)(a)**
- F5** Reg. 85(3B)(a) omitted (15.12.2023) by virtue of [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(2)(b)**
- F6** Reg. 85(3B)(b) omitted (15.12.2023) by virtue of [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(2)(b)**
- F7** Reg. 85(3B)(da) inserted (15.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(2)(c)**
- F8** Reg. 85(3B)(ea)-(ec) inserted (15.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(2)(d)**
- F9** Reg. 85(3B)(ha) inserted (15.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(2)(e)**
- F10** Reg. 85(3B)(ja)-(jc) inserted (15.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(2)(f)**
- F11** Reg. 85(3B)(ra)-(re) inserted (1.1.2024) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 5\) Regulations 2023 \(S.I. 2023/1367\)](#), regs. 1(2), **6**
- F12** Reg. 85(3BA)(3BB) inserted (15.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(3)**
- F13** Words in reg. 85(3C) substituted (15.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(4)(a)**
- F14** Word in reg. 85(3C) inserted (15.12.2023) by [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023 \(S.I. 2023/1364\)](#), regs. 1(3), **19(4)(b)**

Commencement Information

- I1** Reg. 85 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)

Marginal Citations

- M1** 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)**, the [Wales Act 2014 \(c.29\)](#), **section 7(1)**.
- M2** Section 138 of CEMA was amended by; the [Police and Criminal Evidence Act 1984 \(c. 60\)](#), **section 114(1)**, **Schedule 6**, paragraph 37, and Part 1 of Schedule 7; the [Finance Act 1988 \(c. 39\)](#), **section 11**; the [Serious and Organised Crime Act 2005 \(c. 15\)](#), **Part 4** of Schedule 7, paragraph 54; S.I. 1989/1341; and S.I. 2007/288.
- M3** 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](#), Part 2 of 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.

Changes to legislation:

There are currently no known outstanding effects for the The Russia (Sanctions) (EU Exit) Regulations 2019, Section 85.