

SCHEDULE 2

Article 2

Modifications to be made in the extension of the Lebanon (Sanctions)  
(Assassination of Rafiq Hariri and others) (EU Exit) Regulations  
2020 to each British overseas territory listed in Schedule 1

1. In regulation 1 (citation and commencement)—
  - (a) in the heading, omit “and commencement”;
  - (b) omit para (2).
2. In regulation 2 (interpretation)—
  - (a) the existing text becomes paragraph (1);
  - (b) in that paragraph—
    - (i) in the appropriate places, insert the following definitions—

““authorised officer” means, in relation to the Territory—

      - (a) a member of Her Majesty’s forces in the Territory,
      - (b) a police or customs officer of the Territory,
      - (c) a person authorised by the Governor for the purposes of exercising, whether generally or in a particular case, any power conferred by—
        - (i) regulation 20 (finance: powers to request information),
        - (ii) regulation 21 (finance: production of documents),
        - (iii) regulation 23 (disclosure of information), or
        - (iv) regulation 24A (search warrants), or
      - (d) any person acting under the authority of a person falling within any of paragraphs (a) to (c);”;

““financial sanctions licence” means, in relation to the Territory, a licence issued by the Governor under regulation 16(1);”;

““the Governor” is to be read in accordance with regulation 4A;”;

““Her Majesty’s forces” does not include a force of any country, other than the United Kingdom, that is a member of the Commonwealth;”;
      - (ii) omit the definitions of—
        - (aa) “Treasury licence”, and
        - (bb) “United Kingdom person”;
    - (c) after that paragraph insert—

“(2) In the application of these Regulations to a particular British overseas territory, the expression “the Territory” means that territory.”
  3. In regulation 3 (application of prohibitions and requirements outside the United Kingdom)—
    - (a) in the heading, for “United Kingdom” substitute “Territory”;
    - (b) in paragraphs (1) and (4), for “United Kingdom person” substitute “Territory person”;
    - (c) in paragraphs (1), (4) and (7), for “United Kingdom” substitute “Territory”;
    - (d) in paragraphs (2) and (5), after “in the territorial sea” insert “of the Territory”;
    - (e) in paragraphs (3) and (6), for “Treasury licence” substitute “financial sanctions licence”;
    - (f) at the end, insert—

“(8) In this regulation—

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“territorial sea of the Territory” means the territorial sea as defined in an enactment applicable in the Territory or, in the absence of such an enactment, the territorial sea adjacent to the Territory;

“Territory person” means, in relation to the Territory, a person who is—

- (a) an individual ordinarily resident in the Territory who is—
  - (i) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (ii) a person who under the British Nationality Act 1981(1) is a British subject, or
  - (iii) a British protected person within the meaning of that Act, or
- (b) a body incorporated or constituted under the law of any part of the Territory.”

4. In regulation 4 (purposes), for “the regulations contained in this instrument that are made under section 1 of the Act” substitute “these Regulations”.

5. At the end of Part 1 (General), insert—

#### **“Functions of the Governor**

4A.—(1) In these Regulations, “the Governor” means, in relation to the Territory, the person holding or acting in the office of Governor of the Territory, or, if there is no such office, the officer for the time being administering the Territory.

(2) The Governor may, to such extent and subject to such restrictions and conditions as the Governor thinks proper, delegate or authorise the delegation of any of the Governor’s powers under these Regulations to any person, or class or description of persons, and any references in these Regulations to the Governor are to be construed accordingly.

(3) In the exercise of any power conferred on the Governor by these Regulations, the Governor is to act in their discretion.”

6. After regulation 5 (designation of individual persons named under UN Security Council Resolutions), insert—

#### **“Requirement to publish a list of designated persons**

5A.—(1) The Governor must—

- (a) publish a list of designated persons, and
- (b) keep the list up to date.

(2) The Governor may publish the list under paragraph (1) in any form the Governor considers appropriate, including by means of a website.

(3) For the purposes of this regulation, “designated person” means a person who is designated for the purposes of regulation 8 to 12 (asset-freeze etc.) by reason of regulation 5 (designation of individual persons named under UN Security Council Resolutions).”

7. In regulation 14 (finance: exceptions from prohibitions)—

- (a) omit paragraph (5);
- (b) in paragraph (6), for the definition of “relevant institution” substitute—

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(1) 1981 c.61. Part IV has been amended by the British Overseas Territories Act 2002 (c.8), section 1(1)(b); and the Nationality, Immigration and Asylum Act 2002 (c.41), Schedule 2, paragraph 1(i).

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““relevant institution”, in relation to the Territory, means a person domiciled in the Territory who would satisfy the threshold conditions for permission under Part 4A of the Financial Services and Markets Act 2000(2) if it had its registered office (or if it does not have one, its head office) in the United Kingdom.”

(c) omit paragraph (7).

8. For regulation 14A (finance: exception for authorised conduct in a relevant country) substitute—

**“Finance: exceptions for authorised conduct outside the Territory**

14A.—(1) Where a person’s conduct outside the Territory would, in the absence of this paragraph, contravene a prohibition in any of regulations 8 to 12 (asset-freeze etc.), the prohibition is not contravened if the conduct is authorised by a licence issued under regulation 16 (Treasury licences) (as it has effect in the United Kingdom).

(2) Where a person’s conduct in a relevant country would, in the absence of this paragraph, contravene a prohibition in any of regulations 8 to 12 (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued—

- (a) under the law of the relevant country, and
- (b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

(3) In this regulation—

“relevant country” means—

- (a) any of the Channel Islands,
- (b) the Isle of Man, or
- (c) any British overseas territory other than the Territory.

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

9. For regulation 15 (exception for acts done for purposes of national security or prevention of serious crime), substitute—

“15.—(1) Where an act would, in the absence of this paragraph, be prohibited by any prohibition in Part 3 (Finance), that prohibition does not apply to the act if the act is one which—

- (a) a responsible officer has determined would be in the interests of—
  - (i) national security, or
  - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) the Governor, with the consent of the Secretary of State, has determined would be in the interests of the prevention or detection of serious crime in the Territory.

(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 5 (Information and records), that requirement does not apply if—

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(2) 2000 c.8. Part 4A was inserted by the Financial Services Act 2012 (c.21), section 11(2) and most recently amended by S.I. 2018/1149; it is prospectively amended by S.I. 2019/632.

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- (a) a responsible officer has determined that not doing the thing in question would be in the interests of—
  - (i) national security, or
  - (ii) the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (b) the Governor, with the consent of the Secretary of State, has determined that not doing the thing in question would be in the interests of the prevention or detection of serious crime in the Territory.

(3) In this regulation, “responsible officer” means a person in the service of the Crown or holding office under the Crown in the United Kingdom, 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.”

**10.** For regulation 16 (Treasury licences), substitute—

**“Financial sanctions licences**

**16.—**(1) The prohibitions in regulations 8 to 12 (asset-freeze etc.) do not apply to anything done under the authority of a licence issued by the Governor under this paragraph.

(2) The Governor may issue a financial sanctions licence only with the consent of the Secretary of State.

(3) The Governor may issue a financial sanctions licence which authorises acts in relation to a designated person only where the Governor considers that it is appropriate to issue the licence for a purpose set out in Schedule 2.

(4) A financial sanctions licence under paragraph (1)—

- (a) must specify the acts authorised by it;
- (b) may be general or may authorise acts by a particular person or persons of a particular description;
- (c) may—
  - (i) contain conditions;
  - (ii) be of indefinite duration or a defined duration.

(5) Where the Governor issues a financial sanctions licence, the Governor may, with the consent of the Secretary of State, vary, revoke or suspend it at any time.

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

(7) Where the Governor issues, varies, revokes or suspends a financial sanctions licence which is general or which authorises acts by persons of a particular description, the Governor must take such steps as are considered appropriate to publicise the issue, variation, revocation or suspension of the licence.

(8) In this regulation, “designated person” has the same meaning as in Part 3 (Finance).”

**11.** In regulation 17 (finance: licensing offences), for “Treasury licence”, in both places it occurs, substitute “financial sanctions licence”.

**12.** In regulation 18 (finance: reporting obligations)—

- (a) for “Treasury”, in each place it occurs, substitute “Governor”;
- (b) for paragraph (5) substitute—

“(5) A relevant institution must inform the Governor without delay if that institution credits a frozen account in accordance with regulation 14(4) (finance: exceptions from prohibitions).”

**13.** For regulation 19 (“relevant firm”) substitute—

“**19.**—(1) The following are relevant firms for the purposes of regulation 18—

- (a) a relevant institution;
- (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 provides to other persons, by way of business—
  - (i) accountancy services,
  - (ii) advice about tax affairs,
  - (iii) auditing services,
  - (iv) legal or notarial services, or
  - (v) trust or company services;
- (d) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;
- (e) the holder of a licence to operate a casino in the Territory;
- (f) 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) For the purposes of paragraph (1), the following definitions apply—

“estate agency work”, in relation to the Territory, is to be read in accordance with section 1 of the Estate Agents Act 1979(3), but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of that Act) references to disposing of or acquiring an estate or interest in land outside the Territory 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;

“relevant institution” has the same meaning as it has in regulation 14;

“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—

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(3) 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.

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- (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) For the purposes of regulation 18(1), information or another matter comes to a relevant firm “in the course of carrying on its business” if the information or other matter comes to the firm—

- (a) in the case of a relevant firm within paragraph (1)(a), in the course of carrying on an activity in respect of which permission under Part 4A of the Financial Services and Markets Act 2000 would be required if it had its registered office (or if it does not have one, its head office) in the United Kingdom, and
- (b) 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.”

**14.** In regulation 20 (finance: powers to request information)—

- (a) in paragraph (1), for “The Treasury” substitute “An authorised officer”;
- (b) in paragraph (2)—
  - (i) for “The Treasury”, in the first place it occurs, substitute “An authorised officer”;
  - (ii) for “the Treasury”, in the second place it occurs, substitute “the authorised officer”;
- (c) in paragraph (4), for “the Treasury believe” substitute “the authorised officer believes”;
- (d) in paragraph (5)—
  - (i) for “The Treasury” substitute “An authorised officer”;
  - (ii) for “Treasury licence” substitute “financial sanctions licence”;
- (e) for paragraph (6) substitute—

“(6) An authorised officer may request a person to provide information within paragraph (7) if the authorised officer believes that the person may be able to provide the information.”
- (f) in paragraph (7)—
  - (i) for “the Treasury” substitute “the authorised officer”;
  - (ii) in sub-paragraph (b)(iii), for “Treasury licence” substitute “financial sanctions licence”;
- (g) in paragraph (8), for “The Treasury” substitute “The authorised officer”;
- (h) in paragraph (10), for “the Treasury”, in both places it occurs, substitute “the authorised officer”.

**15.** In regulation 21 (finance: production of documents)—

- (a) in paragraph (2), for “the Treasury request that documents be produced, the Treasury” substitute “an authorised officer requests that documents be produced, the authorised officer”;
- (b) for paragraph (3), substitute—

“(3) Where an authorised officer requests a designated person or a person acting under a financial sanctions 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 authorised officer or as the authorised officer may otherwise permit).”

**16.** In regulation 22 (finance: information offences), in paragraph (1)(d), for “the Treasury” substitute “an authorised officer”.

**17.** In regulation 23 (disclosure of information)—

- (a) in paragraph (1), for “Secretary of State or the Treasury” substitute “Governor or an authorised officer”;
- (b) in paragraph (2)—
  - (i) after sub-paragraph (c) insert—

“(ca) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the Territory for an offence under any provisions of these Regulations;”;
  - (ii) in sub-paragraph (d)(i), after “Regulations” insert “(as they have effect in the United Kingdom)”;
  - (iii) in sub-paragraph (e), after “any British overseas territory” insert “other than the Territory”;
  - (iv) in sub-paragraph (g), for “United Kingdom” substitute “Territory”;
- (c) in paragraph (3)(j), for “Secretary of State or the Treasury (as the case may be) consider” substitute “Governor considers”.

**18.** In regulation 24 (Part 5: supplementary)—

- (a) for paragraph (2) substitute—

“(2) But nothing in that regulation authorises a disclosure that would contravene the data protection legislation if that legislation were applicable to the Territory.”
- (b) in paragraph (5), for “Treasury licence” substitute “financial sanctions licence”;
- (c) after paragraph (5) insert—

“(5A) An authorised officer must, if requested to do so, produce evidence of their authority before exercising any power conferred by this Part.”
- (d) in paragraph (6), in the definition of “privileged information”, omit “(in Scotland, to confidentiality of communications)”.

**19.** In Part 6 (Enforcement), at the beginning insert—

**“Search warrants**

**24A.**—(1) A magistrate or justice of the peace may issue a search warrant if satisfied by information on oath that—

- (a) there is reasonable cause to suspect that a relevant offence under these Regulations has been, or is being, or is about to be, committed, and
- (b) evidence in relation to the offence is to be found on a ship, aircraft, vehicle or premises specified in the information.

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(2) A search warrant issued under this regulation is a warrant empowering an authorised officer to enter and search the ship, aircraft, vehicle or premises specified in the information, at any time within one month from the date of the warrant.

(3) The powers conferred on an authorised officer by a search warrant under this regulation include powers to—

- (a) in the case of a power to enter a ship, aircraft or vehicle, stop that ship, aircraft or vehicle;
- (b) enter any land, where such entry appears to the authorised officer to be necessary in order to enter the ship, aircraft, vehicle or premises specified in the information;
- (c) take such other persons and such equipment on to the ship, aircraft, vehicle or premises as appear to the authorised officer to be necessary;
- (d) inspect and seize any thing found in the course of a search if the authorised officer has reasonable cause to suspect that—
  - (i) it is evidence in relation to a relevant offence under these Regulations, or
  - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed;
- (e) take copies of any document.

(4) An authorised officer who enters a ship, aircraft, vehicle or premises under a search warrant issued under this regulation may—

- (a) search any person found on the ship, aircraft, vehicle or premises whom the officer has reasonable cause to suspect to be in possession of any thing which may be required as evidence for the purposes of proceedings in respect of a relevant offence under these Regulations, and
- (b) seize any such thing found in such a search.

(5) Any thing seized under paragraphs (3)(d) or (4)(b) may be retained for so long as is necessary in all the circumstances.

(6) A search of a person under paragraph (4)(a) must be carried out by a person of the same sex.

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

(8) An authorised officer must, if requested to do so, produce evidence of their authority before exercising any power conferred by this regulation.

(9) Nothing in this regulation affects any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

(10) For the purposes of this regulation—

- “aircraft” has the same meaning as it has in section 6(9) of the Act;
- “information on oath” includes any other relevant form of application to a magistrate or justice of the peace in the Territory;
- “justice of the peace” includes other competent judicial authorities within the Territory responsible for granting search warrants;
- “relevant offence” means an offence which is punishable with a term of imprisonment of more than 6 months;
- “ship” has the same meaning as it has in section 7(14) of the Act;
- “vehicle” means a land transport vehicle.”



**20.** For regulation 25 (penalties for offences) substitute—

“**25.**—(1) Paragraphs (3) and (4) apply to—

- (a) Anguilla;
- (b) British Antarctic Territory;
- (c) British Indian Ocean Territory;
- (d) Cayman Islands;
- (e) Montserrat;
- (f) Pitcairn, Henderson, Ducie and Oeno Islands;
- (g) Turks and Caicos Islands;
- (h) Virgin Islands.

(2) Paragraphs (5) and (6) apply to—

- (a) Falkland Islands;
- (b) St Helena, Ascension and Tristan da Cunha;
- (c) South Georgia and the South Sandwich Islands;
- (d) the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus.

(3) A person who commits an offence under any provision of Part 3 (Finance) or regulation 17 (finance: licensing offences) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years, or a fine, or both.

(4) A person who commits an offence under regulation 18(6) or 22 (information offences in connection with Part 3) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both.

(5) A person who commits an offence under any provision of Part 3 or regulation 17 (finance: licensing offences) is liable on conviction to imprisonment for a term not exceeding 7 years, or a fine, or both.

(6) A person who commits an offence under regulation 18(6) or 22 (information offences in connection with Part 3) is liable on conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or its equivalent in the currency of the Territory, or both.

(7) Where a penalty in this regulation is expressed to be a sum in sterling or its equivalent in the currency of the Territory, the Governor may issue guidance specifying how to calculate the amount in the currency of the Territory which is to be considered equivalent to that sum in sterling.”

**21.** For regulation 27 (jurisdiction to try offences), substitute—

“**27.** Wherever an offence under these Regulations is committed (whether in the Territory or outside the Territory)—

- (a) proceedings for the offence may be taken at any place in the Territory, and
- (b) the offence may for all incidental purposes be treated as having been committed at any such place.”

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22. After regulation 27 (jurisdiction to try offences), insert—

**“Consent to prosecutions**

27A.—(1) Proceedings for an offence under these Regulations must not be instituted in the Territory except with the consent of the principal public officer of the Territory responsible for criminal prosecutions.

(2) Nothing in paragraph (1) prevents—

- (a) the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of an offence under these Regulations, or
- (b) the remand in custody or on bail of any person charged with such an offence.”

23. For regulation 28 (procedure for offences by unincorporated bodies) substitute—

“28. Any provision in an enactment which applies in the Territory in relation to criminal proceedings brought against a body corporate applies also for the purposes of proceedings in the Territory for an offence under these Regulations brought against an unincorporated body.”

24. In regulation 29 (time limit for proceedings for summary offences), omit paragraph (4).

25. Omit regulation 30 (application of Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005(4)) (including the heading).

26. In regulation 31 (notices)—

- (a) in paragraph (1), for “(Treasury licences)”, substitute “(financial sanctions licences)”; and
- (b) for “United Kingdom”, in each place it occurs, substitute “Territory”.

27. Omit regulation 32 (revocations) (including the heading).

28. Omit regulation 33 (amendment to the United Nations and European Union Financial Sanctions (Linking) Regulations 2017) (including the heading).

29. In regulation 34 (transitional provision: Treasury licences)—

- (a) in the heading, for “Treasury licences” substitute “financial sanctions licences”;
- (b) in paragraph (1)(a), for “by the Treasury under regulation 9 of the 2012 Regulations” substitute “by the Governor under article 9 of the 2006 Order”;
- (c) in paragraph (2), for “Treasury under regulation 16(1) (Treasury licences)” substitute “Governor under regulation 16(1) (financial sanctions licences)”;
- (d) in paragraph (3), for “2012 Regulations” substitute “2006 Order”;
- (e) in paragraph (4), before sub-paragraph (a), insert—
  - “(za) the 2006 Order.”;
- (f) in paragraph (5)(a), for “2011 Regulations” substitute “2006 Order”;
- (g) in paragraph (7)—
  - (i) at the appropriate place, insert—

(4) 2005 c.15. Chapter 1 of Part 2 has been amended by the Terrorism Act 2006 (c.11), section 33(2) to (4); the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33), sections 26(2) and 30(2) and Schedules 3 and 5; the Bribery Act 2010 (c.23), section 17(2) and Schedule 1; the Criminal Justice and Licensing (Scotland) Act 2010 (asp.13), section 203 and Schedule 7, paragraph 77; the Crime and Courts Act 2013 (c.22), section 15 and Schedule 8, paragraphs 157 and 159; the Criminal Finances Act 2017 (c.22), section 51(1); the Sanctions and Anti-Money Laundering Act 2018, section 59(4) and Schedule 3, paragraph 4; S.I. 2020/1629; and S.I. 2014/834.

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“the 2006 Order” means the Lebanon and Syria (United Nations Measures) (Overseas Territories) Order 2006<sup>(5)</sup>;

(ii) for the definition of “the relevant date” substitute—

“the relevant date” means the date on which Part 3 comes into force.”

**30.** In Schedule 2 (Treasury licences: purposes), in the heading, for “Treasury licences” substitute “Financial sanctions licences”.

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(5) S.I. 2006/311, amended by S.I. 2009/888; S.I. 2012/362; S.I. 2018/1076; and S.I. 2019/185.