

**EXPLANATORY MEMORANDUM TO**  
**THE SANCTIONS (EU EXIT) (MISCELLANEOUS AMENDMENTS) (NO. 4)**  
**REGULATIONS**

**2020 No. 951**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument is made under the Sanctions and Anti-Money Laundering Act 2018 (“the Sanctions Act”) to make corrections and amendments to the following sanctions Regulations: the Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019 (S.I. 2019/134), the Venezuela (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/135), the Burma (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/136), the Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/554), the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/600), the Zimbabwe (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/604), the Syria (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/792), the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855), the Chemical Weapons (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/618), the Burundi (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/1142), the Guinea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/1145), the Cyber (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/597), the Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/608) and the Nicaragua (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/610).

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument is laid before Parliament under section 55(3) of the Sanctions Act and is subject to the made affirmative procedure. It does not come into force until a date or dates to be appointed in separate regulations made under section 56 of the Sanctions Act (see regulation 1(2)). Section 56 of the Sanctions Act enables special provision to be made for the commencement of sanctions Regulations where such provision is appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union. Section 56(5) of the Sanctions Act provides that the instrument must be approved by resolution of both Houses within 60 days of the Regulations coming into force for it to continue to have effect. This defers parliamentary debates in relation to this instrument until after it has come into force.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

#### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the same as the territorial extent of the instruments which it amends: that is, the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is also the same as the territorial application of the instruments which it amends. That is, it applies to the whole of the United Kingdom. It also applies to conduct by United Kingdom persons outside the United Kingdom.

#### **5. European Convention on Human Rights**

- 5.1 Lord Ahmad of Wimbledon, Minister of State at the Foreign, Commonwealth and Development Office, has made the following statement regarding Human Rights:
- “In my view the provisions of the Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020 are compatible with the Convention rights.”

#### **6. Legislative Context**

- 6.1 This instrument is made in exercise of powers conferred by sections 1, 45 and 54(2) of the Sanctions Act. The only previous instruments to use these powers to make amendments to sanctions Regulations made under the Sanctions Act were the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/843), the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/591), and the Sanctions (EU Exit) (Miscellaneous Amendments) (No.2) Regulations 2020 (S.I. 2020/590).
- 6.2 The instrument makes an amendment to the following sanctions Regulations which were made under the Sanctions Act for purposes other than compliance with a UN obligation: the Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019 (S.I. 2019/134), the Venezuela (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/135), the Burma (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/136), the Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/554), the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/600), the Zimbabwe (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/604), the Syria (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/792), the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855), the Chemical Weapons (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/618), the Burundi (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/1142), the Guinea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/1145), the Cyber (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/597), the Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/608) and the Nicaragua (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/610).
- 6.3 A second instrument, which is subject to the negative resolution procedure, makes similar amendments to the sanctions regulations which have been made under the Sanctions Act for the purposes of compliance with a UN obligation.

#### **7. Policy background**

##### ***What is being done and why?***

- 7.1 The purpose of the instrument is to update the sanctions regulations listed in paragraph 2.1 as a consequence of a change in policy and drafting approach in relation to sanctions licences issued by the Crown Dependencies and Overseas Territories.

7.2 The sanctions Regulations listed in paragraph 2.1, which this instrument amends, are part of a wider programme of statutory instrument drafting, the objective of which is to bring into UK law the sanctions regimes currently implemented through EU Council Decisions and Regulations. These instruments contain prohibitions that have extra-territorial application to UK persons. This could have the effect of imposing a double prohibition and therefore a double licensing burden on UK persons in the Overseas Territories and Crown Dependencies, given that they will also be covered by specific legislation applicable in these jurisdictions. This instrument therefore introduces an exception for activities carried out under a licence granted by the Overseas Territories and Crown Dependencies.

7.3 This instrument is accompanied by a statutory report that is required to be published under section 46 of the Sanctions Act. In accordance with section 46(2) of the Sanctions Act, the report explains why the Minister considers that the carrying out of the stated purposes of the regulations being amended would meet one or more of the discretionary purposes (i.e. purposes other than implementing UN obligations) set out in the Sanctions Act; why there are good reasons to pursue those purposes; and why the Minister considers that the imposition of sanctions is a reasonable course of action for those purposes.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument is not being made under the European Union (Withdrawal) Act but it relates to the withdrawal of the United Kingdom from the European Union. This is because the instrument amends sanctions regulations that were made to replace, with substantially the same policy effects, existing EU sanctions legislation.

## **9. Consolidation**

9.1 This instrument makes minor amendments to existing sanctions Regulations. Therefore, there is no need for consolidation. The Foreign, Commonwealth and Development Office will keep the need for consolidation under review.

## **10. Consultation outcome**

10.1 No consultation has been carried out on this instrument. HMG ran a public consultation on the Sanctions Act which was open for nine weeks. The Explanatory Memoranda to the sanctions Regulations listed in paragraph 2.1 of this memorandum further explain the consultation which was carried out in relation to the Sanctions Act.

## **11. Guidance**

11.1 In accordance with section 43 of the Sanctions Act, guidance is published in relation to the prohibitions and requirements under the sanctions Regulations which are amended by this instrument. This guidance will be updated to reflect the amendments to those sanctions Regulations made by this instrument.

## **12. Impact**

12.1 This instrument makes corrections and amendments to sanctions Regulations which are intended to maintain existing sanctions measures that are already applicable to UK business, charities and voluntary bodies through EU law. They are intended to deliver

substantially the same policy effects as the existing EU sanctions. Therefore, we assess that there is no new substantial impact.

- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been produced for these Regulations, as this instrument is intended to ensure existing sanctions remain in place following EU exit. An impact assessment was, however, produced for the primary legislation, which can be found at <https://publications.parliament.uk/pa/bills/lbill/20172019/0069/sanctions-and-anti-money-laundering-IA.pdf>. That assessment concluded that the introduction of the Act, and statutory instruments under it to transfer existing regimes into UK law, would overall reduce uncertainty for business and would not result in significant costs or impact, apart from some familiarisation costs for businesses associated with adapting to the new legislative framework.

### **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 The amendments made by this instrument are intended to continue with substantially the same policy effects as the regulatory requirements under the existing EU sanctions regime. The Foreign, Commonwealth and Development Office does not believe it is possible to exempt smaller businesses from the requirements to comply with these sanctions Regulations as this could provide a route for the circumvention or evasion of sanctions.

### **14. Monitoring & review**

- 14.1 Section 30 of the Sanctions Act requires regular reviews of the sanctions Regulations which are amended by this instrument. However, section 30 does not apply to this instrument, by virtue of section 45(6) of the Sanctions Act. As such, the Minister does not consider that a review clause in this instrument is appropriate.

### **15. Contact**

- 15.1 Sarah Henson at the Foreign, Commonwealth and Development Office telephone: 020 7008 0951 or email: [Sanctions.SIs@fcdo.gov.uk](mailto:Sanctions.SIs@fcdo.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Lisa Maguire, Deputy Director at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Ahmad of Wimbledon, Minister of State at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.