

**EXPLANATORY MEMORANDUM TO**  
**THE GLOBAL ANTI-CORRUPTION SANCTIONS REGULATIONS 2021**  
**2021 No. 488**

**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 The purpose of this instrument is to prevent and combat serious corruption. This instrument enables the Secretary of State to impose financial sanctions and travel bans on persons involved in serious corruption.

**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 and Anti-Money Laundering Act 2018 (“**the Sanctions Act**”) and is subject to the made affirmative procedure. Section 55(3) provides that the instrument must be approved by resolution of both Houses within 28 days, beginning on the day on which it is made.

*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 whole of the UK.
- 4.2 Subject to paragraph 4.3, the territorial application of this instrument is the UK.
- 4.3 This instrument also applies to conduct by UK persons outside the UK, and to conduct by any person in the territorial sea adjacent to the UK.

**5. European Convention on Human Rights**

- 5.1 The Secretary of State for Foreign, Commonwealth and Development Affairs has made the following statement regarding human rights:

“In my view the provisions of the Global Anti-Corruption Sanctions Regulations 2021 are compatible with the Convention rights.”

**6. Legislative Context**

- 6.1 When the UK was a member of the European Union, its implementation of UN and other multilateral sanctions relied largely on the European Communities Act 1972. Each sanctions regime generally consisted of an EU Council Decision, a corresponding

directly applicable EU Council Regulation, and related UK regulations made under section 2(2) of the European Communities Act 1972 and other domestic legislation.

- 6.2 The Sanctions Act was introduced to enable the UK to implement sanctions after the UK's departure from the EU. Section 1 of the Sanctions Act enables Her Majesty's Government (HMG) to introduce sanctions regimes for the purposes of compliance with UN obligations and other international obligations, as well as for a number of other purposes which include: furthering the prevention of terrorism; national security; promoting international peace and security; promoting compliance with international human rights law and respect for human rights; furthering foreign policy objectives; and promoting respect for democracy, the rule of law and good governance.
- 6.3 The end of the Transition Period saw the coming into force of a number of sanctions regulations, made under section 1 of the Sanctions Act, which replaced, with similar effect, EU sanctions regimes. These included regulations containing country-specific sanctions regimes, such as those relating to Russia, DPRK and Iran, and thematic sanctions regimes, such as those relating to terrorism, chemical weapons and cyber activity. They included the Misappropriation (Sanctions) (EU Exit) Regulations 2020, which replaced three EU regimes concerning misappropriation of State funds in Tunisia, Egypt and Ukraine.
- 6.4 The first Sanctions Act regulations which did not replace a previous EU regime were the Global Human Rights Sanctions Regulations 2020, which came into force in July 2020. Those regulations enable the UK to impose sanctions on individuals and entities involved in serious human rights violations or abuses around the world.

## 7. Policy background

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

- 7.1 HMG is committed to tackling serious corruption, upholding good governance and the rule of law and promoting open societies. Serious corruption has a range of corrosive effects on states, markets and societies wherever it occurs. It fuels national security threats; is linked to terrorism, serious and organised crime and instability; impedes international trade and investment; undermines sustainable development; threatens democracy and deprives citizens of vital public resources. The 2021 Integrated Review prioritises working with UK partners to protect democratic values and promote effective governance, including through the use of anti-corruption sanctions. This sanctions regime will be a significant additional instrument to complement wider HMG action to counter corruption under the UK Anti-Corruption Strategy.
- 7.2 This instrument will enable HMG to designate persons who are involved in certain activities identified as the most harmful types of corruption: bribery and misappropriation of property involving public officials. Such persons are able to be designated for the purpose of a travel ban and/or financial sanctions. The designation of such persons would be intended to prevent and combat serious corruption.
- 7.3 Part 2 of this instrument lists the criteria against which a Minister may make a decision to designate a person as being subject to a travel ban and/or financial sanctions ("**designated persons**"). The names of designated persons are not included in this instrument. These will be held on a separate administrative list on gov.uk to enable immediate publication following a decision to make or amend a designation. This limits the opportunity for designated persons to remove assets from the UK in advance of designation.

- 7.4 Part 3 of this instrument sets out financial sanctions measures that can be imposed on designated persons, and the offences which can be committed if the measures are not adhered to. Financial sanctions consist of an asset-freeze, ensuring a designated person's funds and economic resources (non-monetary assets, such as property or vehicles) are not dealt with, and ensuring that funds and economic resources are not made available to or for the benefit of a designated person, either directly or indirectly.
- 7.5 Part 4 of this instrument sets out the effect of immigration measures made under this instrument. A designation under regulation 5 of the instrument means that section 8B of the Immigration Act 1971 then applies to the person: a designated person is banned from travelling to or via the UK and any permission to stay in the UK that they may have is cancelled.
- 7.6 Part 5 of this instrument makes provision in respect of exceptions and licences that may apply or be available, as the case may be, in respect of prohibitions and requirements under this regime. It states that HM Treasury may issue specific licences to permit activity prohibited by Part 3 (Finance) where it is appropriate for a purpose set out in Schedule 2 of the instrument. Schedule 2 outlines the circumstances in which a person can apply for a licence, for example allowing funds to be released in order to pay for basic needs, such as food. HM Treasury's Office for Financial Sanctions Implementation provides general information and guidance about licensing. In certain circumstances the Secretary of State may direct that the travel ban does not apply.
- 7.7 This instrument is accompanied by two statutory reports that are required to be published under the Sanctions Act.
- 7.8 Firstly, and in accordance with section 2(4) of the Sanctions Act, a report has been produced to explain why the Minister considers that the carrying out of the purposes of this instrument 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.
- 7.9 Secondly, and in accordance with section 18 of the Sanctions Act, a report has been produced that identifies the offences contained in this instrument; explains why there are good reasons for those offences; and explains why there are good reasons for the prescribed penalties in relation to those offences. Offences include, for example, breaching or circumventing the substantive financial sanctions measures or providing false information for the purpose of obtaining an HM Treasury licence.
- 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 2018.
- 9. Consolidation**
- 9.1 This instrument does not consolidate previous instruments.
- 10. Consultation outcome**
- 10.1 HMG ran a public consultation on the Sanctions Act which was open for nine weeks. Over 30,000 individuals and companies received a copy of the White Paper, and 34 individuals provided written responses. Government officials held a number of roundtables with key sectors, including financial services, trade bodies, the legal

profession, NGOs and industry professionals and regulators. The main areas of concern raised in consultation responses were around the legal threshold for sanctions designations, the rights of designated persons to challenge their designations, and licensing procedures. All of these concerns were taken into account in the drafting of the Sanctions Act.

- 10.2 There is neither a requirement in the Sanctions Act for public consultation on instruments made under the Sanctions Act, nor is there any other legal obligation to consult in respect of this instrument. HMG will continue engagement with stakeholders on the implementation of UK sanctions.

## **11. Guidance**

- 11.1 In accordance with section 43 of the Sanctions Act, guidance will be published in relation to the prohibitions and requirements under this instrument. This guidance will be available on gov.uk when this instrument comes into force.

## **12. Impact**

- 12.1 The FCDO has undertaken a *de minimis* impact assessment to estimate costs to UK businesses and wider impacts resulting from the Regulations. We have estimated the costs to be beneath the threshold of £5m per annum for a full impact assessment, with costs resulting primarily from a small increase in the number of sanctions designations.
- 12.2 UK businesses must already comply with sanctions against the individuals and entities appearing on a regularly updated gov.uk list. The process for notifying businesses about sanctions and designated persons remains unchanged, so we do not expect significant changes to IT systems or administrative changes. Therefore, costs are limited to familiarisation costs, opportunity costs of travel bans and asset freezes, and costs relating to compliance, legal advice and other professional services.
- 12.3 Fully quantifying costs is not possible, as the UK's use of sanctions will depend on future events and ministerial decisions; however our best estimate is that they sit well below the £5m threshold. Even under a sensitivity analysis – doubling the number of additional designations per annum – the estimate remains well below the threshold.
- 12.4 As noted in paragraph 12.1, a full Impact Assessment has not been produced for this instrument. A *de minimis* Impact Assessment has, however, been produced and is published alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk). In addition, an Impact Assessment was produced for the primary legislation and can be found at <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/sanctions-and-anti-money-laundering-IA.pdf>.

## **13. Regulating small business**

- 13.1 This instrument applies to activities that are undertaken by small businesses.
- 13.2 The Foreign, Commonwealth and Development Office does not believe it is possible to exempt smaller businesses from the requirements to comply with this instrument as this could provide a route for the circumvention or evasion of sanctions.

## **14. Monitoring & review**

- 14.1 The Sanctions Act requires regular reviews of this instrument. Under section 30 of the Sanctions Act, the Secretary of State must consider whether or not this instrument is still appropriate for its stated purpose and lay an annual report before Parliament,

confirming either that is the case or explaining what action has or will be taken in consequence of that review. Consequently, the Minister does not consider that a review clause in this instrument is appropriate.

## **15. Contact**

- 15.1 Ian Floyd at the Foreign, Commonwealth and Development Office, telephone: 020 7008 4684 or email: [Sanctions.SIs@fco.gov.uk](mailto:Sanctions.SIs@fco.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 The Rt Hon Dominic Raab MP, Secretary of State for Foreign, Commonwealth and Development Affairs, can confirm that this Explanatory Memorandum meets the required standard.