

Regulations made by the Secretary of State, laid before Parliament under section 55(3) of the Sanctions and Anti-Money Laundering Act 2018, for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution or prorogation or during which both Houses are adjourned for more than four days.

STATUTORY INSTRUMENTS

2022 No. 1122

SANCTIONS

The Russia (Sanctions) (EU Exit) (Amendment) (No. 16) Regulations 2022

<i>Made</i>	- - - -	<i>1st November 2022</i>
<i>Laid before Parliament</i>		<i>3rd November 2022</i>
<i>Coming into force</i>	- -	<i>5th December 2022</i>

The Secretary of State⁽¹⁾, considering that the requirements in section 45(2) of the Sanctions and Anti-Money Laundering Act 2018⁽²⁾ are met, makes the following Regulations in exercise of the powers conferred by sections 1, 5, 15(2), (3) and (6), 16(1)(a)(i), (b) and (e), 17, 19, 20, 21(1) and 45 of, and paragraphs 4(c) and (d), 13(h) and (i) and 20 of Schedule 1 to, that Act:

Citation and commencement

1.—(1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) (Amendment) (No. 16) Regulations 2022.

(2) These Regulations come into force on 5th December 2022.

Amendment of the Russia (Sanctions) (EU Exit) Regulations 2019

2. The Russia (Sanctions) (EU Exit) Regulations 2019⁽³⁾ are amended as set out in regulations 3 to 17.

(1) The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 (c. 13) is conferred on an appropriate Minister. Section 1(9)(a) of the Act defines an “appropriate Minister” as including the Secretary of State.

(2) 2018 c. 13. Section 17(5)(b)(i) (enforcement) is amended by the Sentencing Act 2020 (c. 17), Schedule 24, paragraph 443(1). Sections 1 and 45 are amended by the Economic Crime (Transparency and Enforcement) Act 2022 (c. 10), sections 57 and 62.

(3) S.I. 2019/855 as amended by S.I. 2020/590, S.I. 2020/951, S.I. 2022/123, S.I. 2022/194, S.I. 2022/195, S.I. 2022/203, S.I. 2022/205, S.I. 2022/241, S.I. 2022/395, S.I. 2022/452, S.I. 2022/477, S.I. 2022/792, S.I. 2022/801, S.I. 2022/814, S.I. 2022/850 and S.I. 2022/[placeholder for number of No.15 SI] and by the Sentencing Act 2020 (c. 17).

Amendment of regulation 46Z3 (Meaning of “relevant day”)

3. In regulation 46Z3, for “31st December 2022” substitute “5th December 2022”.

Insertion of new Chapter 4IA (Maritime transportation of certain oil and oil products)

4. After regulation 46Z9 insert the following Chapter—

“CHAPTER 4IA

Maritime transportation of certain oil and oil products

Interpretation

46Z9A.—(1) In this Chapter—

“2709 oil and oil products” means those oil and oil products—

- (a) falling within commodity code 2709; and
- (b) which originate in or are consigned from Russia;

“2710 oil and oil products” means those oil and oil products—

- (a) falling within commodity code 2710; and
- (b) which originate in or are consigned from Russia;

“first relevant day” means 5th December 2022;

“second relevant day” means 5th February 2023;

“ship” includes every description of vessel (including a hovercraft) used in navigation, except the naval, military or air-force ships of any country;

“third country” means any country other than the United Kingdom, the Isle of Man or Russia.

(2) Paragraph 1 of Schedule 3 applies for determining whether oil and oil products fall within the commodity codes specified in paragraph (1).

Maritime transportation of certain oil and oil products to and between third countries

46Z9B.—(1) A person must not directly or indirectly, on or after the first relevant day, supply or deliver by ship, 2709 oil and oil products—

- (a) from a place in Russia to a third country; or
- (b) from one third country to another third country.

(2) A person must not directly or indirectly, on or after the second relevant day, supply or deliver by ship, 2710 oil and oil products—

- (a) from a place in Russia to a third country; or
- (b) from one third country to another third country.

(3) For the purposes of paragraphs (1) and (2), “supply or deliver by ship” includes any transfer of the goods concerned between ships on which those goods are being supplied or delivered as specified in those paragraphs.

(4) For the purposes of paragraphs (1) and (2), a person supplying or delivering the goods concerned by ship includes a person who owns, controls, charters or operates a ship—

- (a) on which those goods are being carried; or
- (b) from or to which those goods are being transferred.

- (5) For the purposes of paragraph (4), whether a person—
 - (a) owns a ship is to be determined in accordance with regulation 57I(1)(a);
 - (b) controls a ship is to be determined in accordance with regulation 57I(1)(b);
 - (c) has chartered a ship is to be determined in accordance with regulation 57E(3)(c).
- (6) Regulation 57I(2) does not apply for the purposes of paragraph (5)(b).
- (7) Paragraphs (1) and (2) are subject to Part 7 (Exceptions and licences).
- (8) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with an offence of contravening that prohibition to show that the person did not know and had no reasonable cause to suspect that the supply or delivery related to oil and oil products—
 - (a) which fell within commodity code 2709; or
 - (b) which were consigned from or originated in Russia.
- (9) A person who contravenes a prohibition in paragraph (2) commits an offence, but it is a defence for a person charged with an offence of contravening that prohibition to show that the person did not know and had no reasonable cause to suspect that the supply or delivery related to oil and oil products—
 - (a) which fell within commodity code 2710; or
 - (b) which were consigned from or originated in Russia.

Financial services and funds relating to maritime transportation of certain oil and oil products

- 46Z9C.**—(1) A person must not directly or indirectly, on or after the first relevant day, provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is the supply or delivery by ship of 2709 oil and oil products—
 - (a) from a place in Russia to a third country; or
 - (b) from one third country to another third country.
- (2) A person must not directly or indirectly, on or after the second relevant day, provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is the supply or delivery by ship of 2710 oil and oil products—
 - (a) from a place in Russia to a third country; or
 - (b) from one third country to another third country.
- (3) Paragraphs (1) and (2) are subject to Part 7 (Exceptions and licences).
- (4) A person who contravenes a prohibition in paragraph (1) commits an offence but it is a defence for a person charged with an offence of contravening that prohibition 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 the supply or delivery of oil and oil products—
 - (a) which fell within commodity code 2709; or
 - (b) which were consigned from or originated in Russia.
- (5) A person who contravenes a prohibition in paragraph (2) commits an offence but it is a defence for a person charged with an offence of contravening that prohibition 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 the supply or delivery of oil and oil products—
 - (a) which fell within commodity code 2710; or

- (b) which were consigned from or originated in Russia.

Brokering services relating to maritime transportation of certain oil and oil products

46Z9D.—(1) A person must not directly or indirectly, on or after the first relevant day, provide brokering services in relation to any arrangements described in regulation 46Z9C(1).

(2) A person must not directly or indirectly, on or after the second relevant day, provide brokering services in relation to any arrangements described in regulation 46Z9C(2).

(3) Paragraphs (1) and (2) are subject to Part 7 (Exceptions and licences).

(4) 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 described in that paragraph.

(5) A person who contravenes a prohibition in paragraph (2) 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 described in that paragraph.”

Insertion of regulation 60HA (Exception in relation to maritime transportation of certain oil and oil products)

5. After regulation 60H insert—

“Trade: exception in relation to maritime transportation of certain oil and oil products

60HA.—(1) The prohibitions in regulations 46Z9B(1), 46Z9C(1) and 46Z9D(1) (maritime transportation of certain oil and oil products) are not contravened by a relevant activity in relation to any 2709 oil and oil products which—

- (a) originate in a country that is not Russia,
- (b) are not owned by a person connected with Russia, and
- (c) are only being loaded in, departing from or transiting through Russia.

(2) The prohibitions in regulations 46Z9B(2), 46Z9C(2) and 46Z9D(2) are not contravened by a relevant activity in relation to any 2710 oil and oil products which—

- (a) originate in a country that is not Russia,
- (b) are not owned by a person connected with Russia, and
- (c) are only being loaded in, departing from or transiting through Russia.

(3) For the purposes of paragraphs (1) and (2)—

“2709 oil and oil products” and “2710 oil and oil products” have the meanings given in regulation 46Z9A;

“relevant activity” means any activity which would, in the absence of this regulation, contravene the prohibitions specified in paragraph (1) or, as the case may be (2).”

Amendment of regulation 61 (Exception for emergencies in certain cases)

6. After regulation 61(1A) insert—

“(1B) The prohibitions specified in regulations 46Z9B to 46Z9D (maritime transportation of certain oil and oil products) are not contravened by any act done by a person (“P”), where P provides justification to the Treasury within the relevant period that the act is an act dealing with an emergency.”

Amendment of regulation 64 (Treasury licences)

- 7.—(1) Regulation 64 is amended as follows.
- (2) In paragraph (1)—
- (a) for “and 18B” substitute “, 18B”;
 - (b) after “to Russia” insert “and 46Z9B to 46Z9D (maritime transportation of certain oil and oil products)”.
- (3) In paragraph (1A), after “18B” insert “or regulations 46Z9B to 46Z9D”.
- (4) In paragraph (2)—
- (a) omit “and” at the end of sub-paragraph (c);
 - (b) insert “and” at the end of sub-paragraph (d);
 - (c) after sub-paragraph (d) insert—
 - “(e) in the case of acts which would otherwise be prohibited by regulations 46Z9B to 46Z9D, where the Treasury consider that it is appropriate to issue the licence for the purpose set out in Part 4 of Schedule 5.”

Amendment of regulation 65 (Trade licences)

8. In regulation 65, after “(Trade)” insert “(other than the prohibitions in Chapter 4IA of that Part)”.

Amendment of regulation 70 (Finance: reporting obligations)

- 9.—(1) Regulation 70 is amended as follows.
- (2) In paragraph (1)(a)(ii), after “(Finance)” insert “, regulations 46Z9B to 46Z9D (maritime transportation of certain oil and oil products)”.
- (3) After paragraph (1) insert—
- “(1A) An involved person must inform the Treasury as soon as practicable if—
- (a) they know or have reasonable cause to suspect that a person has committed an offence under any provision of—
 - (i) regulations 46Z9B to 46Z9D; or
 - (ii) regulation 67 in so far as the suspected offence under that regulation relates to a prohibition referred to in paragraph (i); and
 - (b) the information or other matter on which the knowledge or cause for suspicion is based came to them in the course of carrying on their business.”
- (4) In paragraph (2)—
- (a) after “paragraph (1)” insert “or an involved person informs the Treasury under paragraph (1A)”;
 - (b) at the end of sub-paragraph (a) omit “and”;
 - (c) at the end of sub-paragraph (b) insert “and”;
 - (d) after sub-paragraph (b) insert—

“(c) any related information it holds about the supply or delivery by ship, financial services or funds or brokering services provided with regard to the provisions referred to in paragraph (1A)(a)”.

(5) After paragraph (2) insert—

“(2A) An involved person must also state, where they inform the Treasury under paragraph (1A), the nature, amount, value, or quantity of any goods or services related to the suspected offence at the time when they first had the knowledge or suspicion.”

(6) In paragraph (6), for “(2)” substitute “(1A), (2), (2A)”.

(7) In paragraph (7), insert in the appropriate places—

““involved person” means a person who is involved in—

- (a) the supply or delivery of oil and oil products; or
- (b) the provision of financial services or funds or brokering services relating to the supply or delivery of oil and oil products;”;

““oil and oil products” has the meaning given in regulation 21(1) (interpretation of Part 5);”.

Amendment of regulation 72 (Finance: powers to request information)

10.—(1) Regulation 72 is amended as follows.

(2) In paragraph (5)(c)—

- (a) for “or 18B” substitute “, 18B”;
- (b) at the end insert “or 46Z9B to 46Z9D (maritime transportation of certain oil and oil products)”.

(3) In paragraph (7)—

- (a) at the end of sub-paragraph (b)(i) insert “or regulations 46Z9B to 46Z9D”;
- (b) in sub-paragraph (c), for “Part 3 or” substitute “Part 3, regulations 46Z9B to 46Z9D (maritime transportation of certain oil and oil products),”.

Amendment of regulation 78 (Disclosure of information)

11. In regulation 78(2)(d)—

- (a) at the end of paragraph (iii) for “; or” substitute “;”;
- (b) at the end of paragraph (iv) insert “, or”;
- (c) after paragraph (iv) insert—

“(v) in relation to a monetary penalty under regulation 88C(1) or (3) (Treasury: power to impose monetary penalties)”.

Amendment of regulation 82 (Jurisdiction to try offences)

12. In regulation 82(1), after “(Finance),” insert “regulation 46Z9B, 46Z9C or 46Z9D (maritime transportation of certain oil and oil products),”.

Amendment of regulation 85 (Trade enforcement: application of CEMA)

13. After regulation 85(3)(a) insert—

“(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),”.

Amendment of regulation 87 (Application of Chapter 1 of Part 2 of Serious Organised Crime and Police Act 2005)

14. In regulation 87, after “(Finance)” insert “, regulations 46Z9B to 46Z9D (maritime transportation of certain oil and oil products)”.

Insertion of regulations 88C and 88D (Treasury: power to impose monetary penalties and procedural rights)

15. After regulation 88B insert—

“Treasury: power to impose monetary penalties

88C.—(1) The Treasury may impose a monetary penalty on a person if they are satisfied, on the balance of probabilities, that the person has committed an offence under regulation 46Z9B, 46Z9C or 46Z9D (maritime transportation of certain oil and oil products).

(2) For the purposes of paragraph (1), any defence that the person did not know and had no reasonable cause to suspect that an offence referred to in that paragraph had been committed is to be ignored.

(3) The Treasury may impose a monetary penalty on a person if they are satisfied, on the balance of probabilities, that the person has committed an offence under—

- (a) regulation 55 (circumventing etc. prohibitions);
- (b) regulation 67 (licensing offences);
- (c) regulation 70(6) (reporting obligations); or
- (d) regulation 74 (information offences),

in so far as the relevant activity relates to an offence referred to in paragraph (1).

(4) In paragraph (3), “relevant activity” means an activity which contravenes a prohibition specified in sub-paragraph (a), (b), (c) or (d) of that paragraph.

(5) The amount of the penalty under paragraph (1) or (3) is to be such amount as the Treasury may determine but it may not exceed the permitted maximum.

(6) Where it is possible to estimate the value of the breach of the prohibition specified in paragraph (1) or (3), the permitted maximum is the greater of—

- (a) £1,000,000, and
- (b) 50% of the estimated value of the breach.

(7) In any other case, the permitted maximum is £1,000,000.

(8) Any monetary penalty payable under this regulation is recoverable by the Treasury as a civil debt.

(9) Any monetary penalty received by the Treasury by virtue of this regulation must be paid into the Consolidated Fund.

(10) The Treasury may publish reports at such intervals as it considers appropriate in cases where—

- (a) a monetary penalty has not been imposed under this regulation; but
- (b) the Treasury is satisfied, on the balance of probabilities, that a person has committed an offence under a provision referred to in paragraph (1) or (3).

Treasury monetary penalties: procedural rights

88D.—(1) Before imposing a monetary penalty on a person under regulation 88C, the Treasury must inform the person of its intention to do so.

(2) The Treasury must also—

- (a) explain the grounds for imposing the penalty;
- (b) specify the amount of the penalty;
- (c) explain that the person is entitled to make representations; and
- (d) specify the period within which any such representations must be made.

(3) If (having considered any representations), the Treasury decides to impose the penalty, the Treasury must—

- (a) inform the person of its decision;
- (b) explain that the person is entitled to seek a review by a Minister of the Crown; and
- (c) specify the period within which the person must inform the Treasury that the person wishes to seek such a review.

(4) If the person seeks a review, the Minister may—

- (a) uphold the decision to impose the penalty and its amount;
- (b) uphold the decision to impose the penalty but substitute a different amount; or
- (c) cancel the decision to impose the penalty.

(5) If on a review under paragraph (4) the Minister decides to uphold the Treasury’s decision to impose the penalty and its amount, or to uphold the Treasury’s decision to impose the penalty but to substitute a different amount, the person may appeal (on any ground) to the Upper Tribunal.

(6) On an appeal under paragraph (5), the Upper Tribunal may quash the Minister’s decision and if it does so may—

- (a) quash the Treasury’s decision to impose the penalty;
- (b) uphold that decision but substitute a different amount for the amount determined by the Treasury (or, in a case where the Minister substituted a different amount, by the Minister).

(7) In this regulation, “Minister of the Crown” means the holder of an office in His Majesty’s Government in the United Kingdom.”

Amendment of regulation 89 (Exercise of maritime enforcement powers)

16. After regulation 89(2)(cd) insert—

“(cda) a prohibition in regulation 46Z9B (trade sanctions relating to maritime transportation of certain oil and oil products to and between third countries);”.

Amendment of Part 3 of Schedule 5 (Treasury licences: purposes)

17. After Part 3 of Schedule 5 insert—

“PART 4

Maritime transportation of certain oil and oil products

Extraordinary situation

- 21.** To enable anything to be done to deal with an extraordinary situation.”

1st November 2022

Anne-Marie Trevelyan
Minister of State
Foreign, Commonwealth and Development
Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Sanctions and Anti-Money Laundering Act 2018 (c. 13) to amend the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) (“the 2019 Regulations”).

Regulation 3 brings forward the introduction date for the prohibitions relating to trade in all oil and oil products from 31st December 2022 to 5th December 2022.

Regulation 4 creates new prohibitions applying to the supply and delivery by ship of certain oil and oil products (“the new prohibitions”). Provision of related ancillary services is also prohibited.

Regulations 5 and 6 create exceptions from the new prohibitions.

Regulations 7 and 17 make provision about Treasury licences allowing maritime transportation of oil and oil products to take place notwithstanding the new prohibitions. Regulation 8 clarifies that trade licences may not be granted in respect of the new prohibitions.

Regulation 9 imposes obligations to report certain information to the Treasury relating to the new prohibitions.

Regulation 10 allows the Treasury to request information relating to the new prohibitions.

Regulation 12 ensures that offences under regulation 67 of the 2019 Regulations insofar as they relate to the new prohibitions may be investigated and prosecuted under the Customs and Excise Management Act 1979 (c. 2).

Regulation 13 makes provision concerning where the offences relating to the new prohibitions may be tried.

Regulation 14 makes provision concerning the application of Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (c. 15) to the new prohibitions.

Regulation 15 both allows the Treasury to impose monetary penalties for breaches of the new prohibitions and related offences and creates related appeal rights. Regulation 11 makes a consequential amendment in respect of disclosure of information for these purposes.

Regulation 16 allows for the enforcement of the new prohibitions by maritime enforcement officers.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector has been published alongside these Regulations and is available from legislation.gov.uk or from the Foreign, Commonwealth and Development Office, King Charles Street, London SW1A 2AH.