
STATUTORY INSTRUMENTS

2022 No. 1122

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

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.”