

EXPLANATORY MEMORANDUM TO

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) REGULATIONS 2022

2022 No. 123

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 amendments to the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) ('the 2019 Regulations'). These amendments will broaden the definition of 'involved person' in the criteria which give grounds for a person to be designated.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument, which is subject to the made affirmative procedure, is laid before Parliament under section 55(3) of the Sanctions Act and comes into force on 10 February 2022. Bringing the instrument into force on the same day it is laid is necessary to provide the Government with the option to make designations without delay, which may be required in the event of further Russian aggressive action towards Ukraine.
- 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 instrument which it amends: that is, the whole of the United Kingdom ('UK').
- 4.2 Subject to paragraph 4.3, the territorial application of this instrument is also the same as the territorial application of the instrument that it amends. That is, it applies to the whole of the UK.
- 4.3 This instrument also applies to conduct by UK persons where that conduct is wholly or partly outside the UK, and some parts of it also apply to conduct by any person in the territorial sea adjacent to the UK.

5. European Convention on Human Rights

- 5.1 The Minister of State for Europe at the Foreign, Commonwealth and Development Office, The Rt. Hon. James Cleverly MP, has made the following statement regarding human rights:

“In my view the provisions of the Russia (Sanctions) (EU Exit) (Amendment) Regulations 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The Sanctions Act establishes a legal framework which enables the Secretary of State to impose sanctions for a number of purposes, which include that it is in the interests of international peace and security and furthering a foreign policy objective of the government of the UK.
- 6.2 This instrument amends the 2019 Regulations.
- 6.3 This instrument is made in exercise of powers conferred by sections 1, 11 and 45 of the Sanctions Act. It makes amendments to the 2019 Regulations, which were made under the Sanctions Act for discretionary purposes within section 1(2) of the Sanctions Act.

7. Policy background

What is being done and why?

- 7.1 Following Russia's illegal annexation of Crimea in 2014, G7 partners introduced a number of restrictive measures including sanctions. The 2019 Regulations established a UK sanctions regime in relation to Russia, which came fully into force at the end of the transition period on the 31 December 2020, replacing the equivalent EU sanctions regimes in UK law. The three separate EU sanctions regimes had had direct effect in the UK since they were established in 2014 following Russia's illegal annexation of Crimea. As set out in the 2019 Regulations the purpose of the sanctions regime is to encourage Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. The UK continues to work closely with international partners to ensure that sanctions remain in place as long as Russia's illegitimate control of the peninsula continues.
- 7.2 The 2019 Regulations are amended to specify additional activities for which a person may be designated as an 'involved person'. Expanding the existing designation criteria will provide a basis for the UK to designate individuals or entities that are or have been involved in obtaining a benefit from or supporting the Government of Russia. The instrument further provides that this includes: carrying on business as a Government of Russia-affiliated entity; carrying on business of economic significance to the Government of Russia; carrying on business in a sector of strategic significance to the Government of Russia; as well as owning or controlling directly or indirectly, or working as a director, trustee or equivalent of such entities.
- 7.3 The amendment is being made because Russia continues to pursue a pattern of aggressive action towards Ukraine. This includes the continued build-up of Russian troops on Ukraine's borders and in illegally annexed Crimea, cyber-attacks against Ukraine, ongoing Russian activity and planning to further destabilise Ukraine, and a hardening of Russian rhetoric, including threats against Ukraine and its political leaders. Russia's current behaviour is not only threatening the sovereignty of Ukraine; it is also destabilising the rules-based international order and challenging the values that underpin it.
- 7.4 The UK has called on Russia to cease its military provocations in Crimea and at Ukraine's borders and to immediately de-escalate tensions in line with its international commitments including under the 1975 Helsinki Act, the Minsk Protocols and 1994 Budapest memorandum. The UK continues to reiterate its support for Ukraine and has called on Russia to withdraw its troops from Ukrainian soil, end its support for the

separatists, and enable the restoration of security along the Ukraine-Russia border under effective and credible international monitoring.

- 7.5 It is essential that the UK is prepared to act with international partners to make additional sanctions designations should Russia take further action to destabilise Ukraine or undermine or threaten its territorial integrity, sovereignty and independence. We intend to use this legislation to significantly strengthen our hand in dealing with Russia's aggressive action towards Ukraine. The new criteria will broaden the range of individuals and entities that can be designated, which are intended to improve the Government's ability to encourage Russia to cease its actions with regard to Ukraine.
- 7.6 The legislation defines sectors of strategic significance to the Government of Russia as the Russian chemicals, construction, defence, electronics, energy, extractives, financial services, information, communications and digital technologies and transport sectors. These sectors have been identified as strategically significant to the Government of Russia on the basis of research and expert advice on Russia's strategic priorities, from a range of sources including with reference to Russia's National Security Strategy 2021 published in July 2021.
- 7.7 The legislation does not define economic significance to the Government of Russia. The Secretary of State will consider a range of evidence to assess whether there are 'reasonable grounds to suspect' that a person is carrying on business of 'economic significance to the Government of Russia'.
- 7.8 The Foreign, Commonwealth and Development Office (FCDO) will use the new criteria in a targeted and smart manner, designed to restrict the activities and bring pressure to bear on those who bear greatest responsibility for Russia's actions and exert the greatest pressure to change course. Any designations made under these criteria will be subject to the existing tests set out in the Sanctions Act and the 2019 Regulations. These are 1) Reasonable grounds to suspect that a person is an involved person as defined by the amended criteria, 2) that the designation is appropriate having regard to the purposes of the regime, and 3) that the designation is appropriate having regard to the likely significant effects on the designated person.
- 7.9 This instrument is accompanied by a statutory report that is required to be published under section 46 of the Sanctions Act in relation to the 2019 Regulations.
- 7.10 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 purpose; and why the Minister considers that the imposition of sanctions is a reasonable course of action for pursuing those purposes.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument itself does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act. The 2019 Regulations related to the withdrawal of the UK from the EU because they replaced, with substantially the same effect, the previous EU Russia sanctions regimes.

9. Consolidation

- 9.1 The 2019 Regulations have been amended by the Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020 (S.I. 2020/590); the Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020 (S.I. 2020/951); and by the Sentencing Act 2020 (c.17). This instrument does not consolidate previous instruments. 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. The Explanatory Memorandum to the 2019 Regulations explains the [consultation](#) that has been carried out in relation to the Sanctions Act.
- 10.2 There is neither a requirement in the Sanctions Act for public consultation on instruments made under the 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 has been published in relation to the prohibitions and requirements under the 2019 Regulations. This guidance will be updated to reflect the amendments to those Regulations made by this instrument.

12. Impact

- 12.1 An impact assessment has not been produced for these Regulations. The purpose of this instrument is to amend the designation criteria; the Regulations remain otherwise unchanged. Any impact will result primarily from any future increase in the number of sanctions designations. However, how much higher the proportion of designated persons with UK assets will be, or at what rate designations under this and other regimes will rise, given HMG has not determined (or yet disclosed) targets for designations. A more detailed analysis of the impact on the UK economy will be made at the point of designations.
- 12.2 UK businesses must already comply with sanctions against 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 will be limited to familiarisation costs, opportunity costs of travel bans and asset freezes, and costs related to compliance, legal advice and other professional services.
- 12.3 As noted in paragraph 12.1, an impact assessment has not been conducted for this instrument. An impact assessment was produced for the primary legislation and can be found [here](#).

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to mitigate regulatory burdens on small businesses.

13.3 The FCDO does not believe it is possible to exempt smaller businesses from the requirements to comply with the measures introduced by this instrument, 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 2019 Regulations which are amended by this instrument. Standalone reviews of this instrument are not required. However, reviews of the 2019 Regulations which take place after this instrument enters into force will include a review of the measures introduced by this instrument. As such, the Minister does not consider that a review clause in this instrument is appropriate.

15. Contact

15.1 The Sanctions Legislation and Policy Team at the Foreign, Commonwealth and Development Office, 0207 008 8553 or email: Sanctions.SIs@fcdo.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Daniel Drake, Deputy Director for Multilateral, Sanctions and Strategic Engagement at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt. Hon. James Cleverly MP, Minister of State for Europe at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.